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SOME EXPERIENCES

OF

A BARRISTER'S LIFE

BY

MR SERJEANT BALLANTINE

B 166

IN TWO VOLUMES

VOL. II.

THIRD EDITION



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OF

A BARRISTER'S LIFE.

CHAPTER I.

CURIOUS TRIAL FOR MURDER.

I AM about to tell a story the circumstances of which would be thought improbable in a romance, and yet every word of it is true; and there are incidents which I believe to be connected with it that would add to its strangeness, but which I suppress because I do not possess the proofs requisite for their authentication.

What I shall relate will disclose a series of blunders, the danger of placing too great reliance upon scientific testimony, and the want of a tribunal capable of revising decisions alleged to have been erroneous in criminal cases.

The unfortunate victim was a lady who, at the

date of my narrative, might still be entitled to be called young, and certainly was of that opinion herself. She was a member of a highly respectable family, and possessed of some 2,000*l.* entirely at her own disposal, and had some further expectancies. She was not fond of the trammels of home life, and, preferring to reside at a boarding-house, she selected the establishment of a respectable lady at Bayswater, where also resided a medical man and his wife, the former about fifty years old, the latter twenty years older. An intimacy sprang up between the doctor and the lodger (whom we will call Miss Hills), of which the mistress of the house did not approve, and gave Miss Hills notice to leave, which she did upon November 29 in the above year. The doctor also left upon December 12 following, and was married the same day to Miss Hills at Battersea Church. Oddly enough no surprise was expressed by the doctor's wife, and her position in the affair is very difficult to be understood; it will certainly be made apparent by the course of events that she was in communication with her husband and upon apparently affectionate terms. Nothing more is known with certainty of the doctor and Miss Hills until February the 4th, when they took apartments in one of the suburbs, where they remained until April the 15th, living as man and wife, and upon leaving went

to another residence in the neighbourhood. It is to be remarked that from the time of their removal in February Miss Hills was apparently suffering from illness, and one of the best-known medical men in the neighbourhood was called in to see her. It must be borne in mind, in reference to statements subsequently relied upon by the prisoner that no suggestion was then made by him that she was pregnant, but he stated that she was suffering from a bilious attack. It would not, however, assist the general reader or help to develop the story to give any details of the symptoms then exhibited.

Suffice it to say that the local practitioner found, to his great astonishment, that none of his remedies produced the slightest effect, and he felt confident that some agent was at work to counteract them. Naturally he was very loth to express such an opinion, and he continued to watch the case with great anxiety; and, without mentioning his suspicions to his partner, requested that gentleman to take charge of the patient for two or three days, which accordingly he did. At the end of that time he also was impressed with the same conviction, and declared his positive opinion that the lady was being placed under the influence of poison, thus fully supporting the view previously arrived at by his partner.

Towards the latter end of April, the sister of

Miss Hills was for the first time communicated with, and she at once came. Her evidence does not throw any light upon the case, except that she deposed that her sister's health was generally good, and that, although she occasionally suffered from bilious attacks, they succumbed readily to simple treatment. Her appearance at this time was so alarming that, at the sister's suggestion, another medical man was sent for, and one of the most eminent physicians of the day attended, and saw her on the last day of April. No communication was made to this gentleman of the suspicions entertained, but the first words he uttered after his examination were, 'That lady is being poisoned!'

A portion of arsenic was discovered in some vomit that was analysed by the well-known chemist Professor Taylor; and this, joined to the absolute conviction of all three medical men, induced one of them to apply for a warrant, and the pseudo-husband was arrested upon it. He was, however, by an utterly unaccountable blunder, released, the magistrates accepting his statement that his absence would kill his wife, and allowing him access to his apartment without supervision. His release, however, did not prevent the fatal result, for on the following day, May 3, the unfortunate lady died in great suffering. A *post-mortem* examination was

held upon her body, and both arsenic and antimony were discovered in different parts of the intestines. It was proved by the landlady of the house in which she died that the supposed husband alone waited upon her, declining upon the ground of poverty (for which there was no foundation) to employ a nurse, and that no portions of the food sent up to their rooms were ever returned. In giving an account of the illness and death of this poor woman I have avoided details of a technical character as much as possible, but I think I have said enough to make my views intelligible; and I have now to call attention to certain facts that must be taken in conjunction with the medical evidence to enable the reader to form a sound conclusion upon the case.

On Saturday, the 12th of April, the accused man called upon a solicitor, and requested him to call the next day for the purpose of drawing out a will, at the same time showing him the draft of one which he said a barrister had prepared. The solicitor objected to doing so on Sunday, but, being told that the lady was ill, consented, if sent for, to come. His visitor called again the next morning, and brought him to where he and Miss Hills were residing. The lawyer wished that a medical man should be present, but this was declined. The draft that he had seen before was produced; and

a will was drawn up founded upon it, which left everything to the accused, and Miss Hills executed it, signing her maiden name.

It was proved at the trial that in a box belonging to the prisoner were found subsequently many forms of wills, and also a letter, which for some reason had not been forwarded, directed to his wife, and which appeared to me one of the most significant incidents in the case. The letter was dated May 2, and contained an intimation that he (the prisoner) had been prevented by circumstances from leaving for town so soon as he expected in consequence of his professional assistance being required by a patient on whom he was attending, and that, *if anything unforeseen prevented him from leaving before the* 11*th*, money should be sent to her for certain purposes, and concluded with the expression of a hope that he might find her quite well on his return, which he trusted would not long be delayed.

I have already stated that Miss Hills died upon May 3, and the supposed widower, who in the meanwhile had unrestricted access to his room, being again taken into custody, was examined before a bench of magistrates, and finally committed to take his trial for murder at the Central Criminal Court, and in due course he came before the Lord Chief Baron Pollock. It so happened that

upon the second day of the trial a juryman was taken ill, the jury were consequently discharged, and the case was adjourned to a subsequent sessions, when the same judge presided. I conducted the prosecution, and the facts as I have related them, but in greater detail, were proved. Mr. Serjeant Parry, with whom was Mr. Giffard, defended, and two abler men could not have been selected. Medical practitioners were called by them to prove that the appearances detailed were consistent with natural causes; and one gentleman, who had figured for the same purpose upon the Palmer trial, started a theory to support this opinion.

The Lord Chief Baron pointed out that it was not from isolated symptoms that a conclusion could be formed, but by the aggregate of all of them joined to the independent facts of the case—the same doctrine in fact as that enforced by Lord Campbell upon the trial of Palmer—and the jury, as it appeared to me at the time, and I still think, came to the right and almost inevitable conclusion of the prisoner's guilt. A great outcry, however, subsequently arose, a medical war was waged with great vigour in the newspapers, and petitions were forwarded to the Secretary of State. Two documents also were produced; one a letter to Miss Hill's sister, and another an entry by the prisoner in a diary. The fact was suppressed that copies

of both were in the hands of the prisoner at the time of the trial, and that I had offered to put them in evidence if it was desired on his behalf, and the Secretary of State was probably drawn into the conclusion that they had been kept back against his wishes.

Ultimately the matter was referred to Sir Benjamin Brodie to report upon, and he obviously could only deal with it in its purely medical phase, and without the light thrown upon it by the other evidence. Of course no one on the part of the prosecution could interfere. The Home Secretary ultimately released the prisoner, who afterwards proved the will of Miss Hills and thus secured possession of her property.[1]

When the following facts are brought to the attention of the reader, this result can easily be understood.

It will be remembered that on the day before the death of Miss Hills, the accused man was given into custody, but released. Whether this could have been under any circumstances prudent, it is abundantly clear that either everything that could throw light upon the subject ought to have been taken possession of beforehand, or some watch placed upon the supposed husband; but neither

[1] After the pardon for the murder he was tried, convicted, and imprisoned for twelve months for bigamy.

was done. He obtained access to his room, and I have very little doubt that he laid a trap, into which Dr. Taylor innocently fell. *After* the death, everything that the prisoner had allowed to remain was secured, when it was noticed that the medicines supplied by the local practitioners were nearly untouched, and there was nothing to excite suspicion but one bottle filled with colourless liquid. This was immediately pounced upon; it was known that arsenic had already been discovered, and so Professor Taylor set to work upon a portion of the liquid with the usual test for the discovery of that poison. This is called Reinsch's test, and consists in mixing a small quantity of hydrochloric acid with the liquid to be tested, and then dropping into it a piece of copper gauze, upon which, if there be any arsenic in the mixture, it is supposed to attach itself. Accordingly this was done with a portion of the liquid in question, but, instead of the gauze attracting anything, it became itself dissolved. Another piece of gauze, and then a third met with the same fate: at last traces of arsenic did attach themselves to a piece of the wire which had not dissolved, and when before the magistrates the Professor, without explaining the difficulty that he had encountered, simply stated that upon analysis he had discovered arsenic. The remaining portion of the contents of the bottle was

preserved,[1] and being subjected to a different test, turned out to contain no arsenic whatever, but was a bottle composed of chlorate of potash, and Professor Taylor ultimately found out that the arsenic he had discovered after so many trials had actually emanated from his own copper gauze, which had been dissolved in the early experiments.

Although really the arsenic and antimony that had undoubtedly been discovered in the body rendered it immaterial whether any was contained in this particular bottle, there can be no doubt that so terrible an oversight on the part of a man of great eminence was calculated to affect public opinion, and lead it to cast discredit upon the whole of the scientific testimony produced, and I have now to relate an incident in connection with it which will, I think, throw some light upon the origin of this most serious mistake.

A physician now of great eminence, who was present when the vomit was analysed, and who gave evidence upon the subject of dysentery, of which he had obtained much experience in the Crimean campaign, forwarded to the solicitor who was conducting the prosecution a number of the 'Lancet,' containing a letter from the prisoner, written some seven or eight years before, upon the

[1] I well remember that upon the inquest the person suspected showed great anxiety that this should be done.

extraction of teeth, and in this number, and upon the opposite page to that which contained his letter, was one of a series of lectures by an eminent chemist on the detection of arsenic, in which it was stated that wherever chlorates were used Reinsch's test would invariably be defeated. It was probably perfectly known to the prisoner that this test had been usually applied by Dr. Taylor, and I have never been able to make up my mind whether there was really any poison in the bottle, or whether it was a contrivance which had been arranged for the purpose during the interval between the prisoner's first and second apprehensions, with a view to the result that occurred; but, whatever was the intention, it undoubtedly saved his life.

It is due to the memory of Dr. Taylor to state that a doubt crossing his own mind led to the discovery of the mistake which was disclosed upon the trial, and did not really affect the weight of the evidence, or apparently the minds of the jury, it being shown that it would not affect the analyses of the vomit and intestines. It may not be altogether satisfactory to mankind to mention that Doctor Taylor wrote to several of the most eminent chemists to obtain specimens of the gauze used by them in their experiments, and that it was in every instance found impregnated in the

same way. The difficulty that presents itself to my thoughts is, why the presence of the chlorate was not ascertained before the test was applied.

It is a pregnant example, however, of what I have been so anxious to enforce—that the speculations of scientific men, however eminent, ought never to be made the basis of a case. They may and constantly do materially assist it. In the instances of Palmer and many others they were so far auxiliary to the other evidence that they showed it to be perfectly consistent with the natural conclusion that the facts themselves had presented to all reasoning minds.

The solicitor of the deceased was indefatigable in his exertions in the conduct of this case. His sympathies and indignation were both roused, and it occurred to him, in looking at the letter of the prisoner in the 'Lancet,' to see where it was dated from, and he found that it was dated from a street in the West End, where the prisoner was living with his wife, and practising as a doctor. His brother carried on business as a chemist in an adjacent street. They both left somewhat suddenly, after an event upon which the subsequent history throws a somewhat ghastly light.

A gentleman named G——, thirty-three years old, accompanied by his wife, a young lady possessing some attractions, came to lodge at the brother's

house, and shortly afterwards was taken ill; he was attended only by the prisoner, the drugs being supplied by his brother. None of the invalid's family saw him, and some of them were refused admittance. He died, and shortly after both brothers disappeared from the neighbourhood, as also did the widow. The certificate of his death described it as resulting from disease of the kidneys. No medical man's name is attached. The application of arsenic would produce symptoms that might be mistaken for this disease. No investigation seems to have taken place, and nothing was heard of the poor fellow's wife until between the period of the two trials of the prisoner, when the solicitor received an extraordinary communication through an equally curious channel. A lady sitting in the gallery during the first trial made some remark to a neighbour favourable to the prisoner, when that person said, 'Oh, he is guilty; he is one of a gang of poisoners.'

The lady asked what she meant, and received a statement and also the person's name and address, which she communicated, and an officer was sent to make inquiries.

She turned out to be the widow of a sergeant and quartermaster in the army, and she furnished a long statement, which it is not necessary for me to set out *in extenso*. The important part of it

was, that she was residing with her husband in a house at Brompton, that the prisoner's brother was living next door, that the prisoner was constantly there, and that a lady calling herself Mrs. G—— was living in the same house. The witness stated that, about three years before, this lady had come into her house in a highly excited state, and said that the prisoner had been trying to force her to make a will in his favour, and made further statements indicating a belief that she should be poisoned if she did.

The witness saw Mrs. G—— upon other occasions; once the servant fetched her when she was in a fit, and a doctor was also present. The patient made statements about the prisoner that showed she was in great apprehension as to the food she was taking. Mrs. G—— appeared to be about forty years of age.

On the 9th of December preceding the marriage the same witness saw the prisoner with another lady, who, from the description, was probably Miss Hills. The foregoing statement was made to Sergeant MacIntyre, a police constable, and, whether the conclusions of the witness were correct or not, there seems but little doubt that Mrs. G—— must have been the widow of the prisoner's former patient.

I think also that it will be admitted that if

the circumstances I have related be substantially correct, they show that through a variety of unfortunate causes the case must be regarded as exhibiting a most lamentable result.

I have already mentioned that a strong contest went on in the press upon the result of the trial, and representations, some of which were certainly untrue, were made to the Home Secretary. The facts were of such a peculiar character that the whole of them should be taken together to enable a sound conclusion to be arrived at. It is simply impossible that this can be done without ordinary legal machinery. Every lawyer knows that in civil cases a rule for a new trial is constantly granted until light is thrown upon the facts by those opposing it. In criminal cases no power exists for such a purpose. The scheme of a Court of Appeal frightens our Legislature, but justice demands it, and I believe that it might be effected with both ease and benefit. I was well acquainted with the leading physician in the case, who was certainly one of the foremost men in his profession. He never swerved for a moment in his conviction that the unfortunate woman was poisoned; and I fancy that he agreed with Brodie and other eminent medical men, that an experienced eye witnessing a death-bed can scarcely be mistaken as to the signs presented if poison has been administered.

CHAPTER II.

THE PELLIZZIONI TRIAL.

DURING the year 1864 a trial took place at the Central Criminal Court which presents features worthy for more reasons than one to be recorded. In the first place, the life of a perfectly innocent man was placed in jeopardy, and in the next the course pursued by the police deserves attention and calls for remark.

It appeared that upon the 26th of December in the previous year a serious disturbance had taken place in a public-house situated on Saffron Hill, Clerkenwell. This locality was at the time inhabited by the humbler class of Italians, and a squabble arose between them and some Englishmen of the neighbourhood, resulting in the death of a man named Harrington, who was mortally wounded, and in serious injury to another man of the name of Rebbeck.

In both cases the injuries inflicted were by some sharp instrument, and in all probability by the same one. An Italian named Pellizzioni was found lying upon the body of the deceased man, and was

then seized by the police, who naturally inferred that he was the perpetrator of the acts. He, however, declared that he had only come in after they were committed, was endeavouring to quell the disturbance, and in the scuffle still going on was thrown upon the body of Harrington, who was not quite dead. No weapon of any kind was found near the spot. After some examinations at the police court Pellizzioni was committed for trial, and tried before Mr. Baron Martin upon the charge of wilful murder.

This learned judge had been a very successful advocate upon the Northern Circuit, where, however, he had not had any experience in the criminal courts, and although essentially humane and kind-hearted, was hasty in forming opinions, and slow in changing them; and it was obvious that very early in the case he took a strong view against the prisoner, and summing up in accordance with it, a verdict of guilty was pronounced. Sentence of death was passed, the judge stating in the course of it that 'he had never known more direct or conclusive evidence in any case.' It would serve no useful purpose to discuss the testimony given by the various witnesses called, and I shall dismiss the question with this remark—that it was extremely conflicting, and there must have existed upon one side or the other very gross

perjury. Several policemen were called and were examined at great length. *No knife was produced or alluded to on the part of the prosecution.*

The conviction of Pellizzioni produced a great sensation in the neighbourhood where he resided, and where he bore the character of a singularly inoffensive man, and those who had known him entertained a very different opinion from Mr. Baron Martin, and a shrewd suspicion, if not a certainty, existed amongst them as to who the culprit really was. Doubts were ventilated through the columns of the 'Daily Telegraph,' and the proprietors of that journal took a strong personal interest in the matter. Mr. Negretti, the well-known optician, who was also a countryman of the convict, was indefatigable in his behalf, and ultimately the force of public opinion in the neighbourhood, and the interference of a Catholic priest, induced a man named Gregorio Mogni to confess that he was the person who had committed the crime, although, as he alleged, in self-defence.

Mogni was committed and tried at the following sessions of the Central Court upon a charge of manslaughter. It fell to the lot of Mr. Justice Byles to try the case. This learned judge possessed great acuteness, but showed very clearly that he was influenced by the strong view previously taken by Mr. Baron Martin.

I was instructed by the friends of Pellizzioni to prosecute, and Mr. Montagu Williams, upon very slight materials, and with very great ability, defended. Mogni was convicted, nor can I see how any other result could have been arrived at. This, however, brought about a very peculiar state of things, as there were two men now lying in Newgate convicted of the same crime. In the one case the judge had declared that he had no doubt of Pellizzioni's guilt; in the other Mogni, who could not be mistaken, declared that he alone committed the crime. Fortunately for the ends of justice, whoever killed Harrington also stabbed Rebbeck, and so, to solve the difficulty, the Government put Pellizzioni through the ordeal of a trial for this latter offence, and Mr. Giffard prosecuted on their behalf, which ensured the certainty that the evidence would be fully sifted. The case occupied some time, I forget how long, and Mogni was called, and adhered to his confession. He was cross-examined very rigidly, but in the end the jury without hesitation acquitted the prisoner; and I do not entertain the slightest doubt that he was perfectly innocent, and very unpleasantly for himself, and at the risk of his neck, illustrated the old lines commencing, 'Those who in quarrels interpose.' It is, however, very seldom that a man who has engaged solely in the endeavour to

prevent strife has been placed in such jeopardy, and it is worthy of consideration to what this can fairly be attributed; I believe it arose from the haste and impetuosity with which the police first adopted a conclusion, and afterwards adhered to it, although they were well aware of circumstances that strongly militated against its correctness.

It will be remembered that upon the first trial no weapon was produced or alluded to on the part of the prosecution, though it will scarcely be credited that the knife with which both injuries were inflicted had been for some time before in the hands of the police. This fact was not brought before those who conducted the prosecution, nor before the jury who tried the case, and it is difficult to find satisfactory reasons for this concealment. The knife had been found at some distance from the spot where the crime had been committed, and could not have been conveyed there by Pellizzioni. It was known throughout the neighbourhood that it was Mogni's knife, and it is difficult to believe that the police alone were ignorant of this fact.

Upon the subsequent trials it was produced, and identified by Mogni. He had, after stabbing the two men, handed it to a fellow-countryman named Cetti, who had thrown it into an out-of-the-way place, where it was subsequently found.

The public-house in which the occurrence took place was evidently of a very low description, and the witnesses called upon the trial were not unlikely to be influenced by the opinion of the police. The police had the practical management of the prosecution before it came into court; and I have felt that in calling attention to its remarkable details I am performing a useful duty to society.

It must be borne in mind that very few in the position of Pellizzioni would be likely to receive the aid of a powerful journal, or obtain the sympathy and assistance of influential friends.

Upon the original trial certain deathbed statements made by Harrington, when *in extremis*, were sworn to by a policeman, which inculpated the prisoner, and which were said to be taken down by another constable. This circumstance doubtless was instrumental in obtaining the first verdict, but through the conduct exhibited by these witnesses it was entirely discredited by the juries upon the two subsequent investigations.

A short time after the acquittal of Pellizzioni I received a visit from the Marquis D'Azeglio, the Sardinian Minister, who was instructed to convey to me the thanks of his Government for my exertions in the case. This was the means of my forming a most agreeable acquaintance. The Marquis was very popular in English society, and I met him

occasionally in London, and subsequently at Homburg, where, through his introduction, I passed many pleasant hours.

I understood from him that the services rendered to Pellizzioni in this country had been very warmly appreciated in his own. I believe that the Marquis died not very long after I had the pleasure of knowing him, and if so it must have been in the prime of life.

It is manifest that in all investigations in criminal matters the police must form a very material element, and the correctness of the result must greatly depend upon their truth and accuracy. It is therefore most important that those who preside upon such inquiries should understand the characteristics of the body, and know something of their organisations. I fear that without such knowledge very serious mischances, and perhaps fatal ones, are likely to arise. I have had constant opportunities of forming a judgment, and my remarks are not founded upon any prejudice against a necessary, and in many respects trustworthy, body of men; but from the conclusions that my experience has forced upon me, I am obliged to say that the evidence given by the police ought to be viewed with a considerable amount of caution.

Wherever men are associated in a common object, as in their case, an *esprit de corps* naturally

arises, and this not unfrequently colours the testimony of individual members. Their duties are extremely trying and calculated frequently to cause anger and irritation, feelings which almost invariably induce those possessed by them to exaggerate if not to invent. The classes against whom they appear are usually without the position that commands consideration, and consequently statements made to their prejudice meet with the more ready belief.

The feeling of sanctity that probably once attached to an oath becomes deadened in the minds of those who are taking it every day, and an easy manner and composed demeanour are acquired by persons constantly in the witness-box. There exists a very bad habit in the force, of communicating their opinions at the outset of an inquiry, thus pledging themselves to views which it is damaging to their sagacity to retract. The Pellizzioni case furnishes an example of the evil arising from this habit. Everybody knows that 'an experienced and intelligent officer has, with his accustomed acuteness,' secured the murderer, &c.; and in this case the police did not like publishing the fact that they had committed a flagrant blunder, and so an innocent man was very nearly being executed. On the other hand, in many cases where constables have discharged their duties in a

most exemplary manner, and may have been either disabled or killed, I cannot think that their services are sufficiently considered, or properly rewarded; and, as I have said in a former portion of these pages, I do not think that nearly sufficient protection is thrown around them by adequate punishments being meted out to those from whom they have been subjected to serious injuries. In the earlier days of their existence they were very unpopular, and it was only natural that the Executive should use every effort to support them, and magistrates were censured occasionally for the views they took in certain cases against members of the force. Now, however, I am sure that as efficient a control as is possible is exercised by the Commissioners, and the magistrates perform their duties without dread of the Home Secretary, formerly a feeling not wholly without justification. As far as my observation has enabled me to form a judgment, the police preserve order in the streets with good temper and firmness.

The preceding reflections are made in no unkind or unfriendly spirit, but now especially, when judges who have never been inside a criminal court are called upon to preside in trials where the issues possibly involve the life of a human being, and where the police perhaps are material witnesses, my

observations may not be altogether out of place or unworthy of consideration.

I am unable to furnish the date of the following case, in which I was engaged on the part of the defendant, a policeman; it was, however, after the trials of which I have in the last chapter given an account. In relating the circumstances I shall not express any belief as to the truth or falsehood of the charge made, but the view taken by the jury justifies me in quoting it as an illustration of some of the observations that I have presented to the reader.

In a certain district in St. John's Wood, shortly before the case I am recording, a number of burglaries had occurred, and great indignation had been expressed at the supineness of the police, not unaccompanied by insinuations of a graver kind.

Two young men, of perfect respectability as far as appeared from evidence that was adduced, were walking on their way home somewhat late one night in the neighbourhood which had been the scene of the burglaries, and, according to their own account, they had done nothing that was calculated to excite suspicion, nor had anything upon their persons unusual for respectable people to possess. To their astonishment they were seized by three policemen, and charged with attempting to break into a house.

The three officers declared that they had watched them, and caught them in the act, and had actually taken from them the implements of burglary.

It is obvious that, if the young men told the truth, one of the most wicked cases of conspiracy ever known had been planned by the police, and was carried out by flagrant perjury.

The accused were discharged, and they, in their turn, prosecuted the three officers at the Central Court. The cases stood for trial before the Recorder, Mr. Russell Gurney, whose name I have previously mentioned, and who, whilst thoroughly impartial, was rather inclined to the side of authority than otherwise.

The charges were for perjury, and it is right that I should mention, for the benefit of the general reader, that only one person can be included in an indictment for that particular offence.

This being so, the defendant charged was able to call, and did call, his two companions. The case was very ably conducted by Mr. Serjeant Sleigh, and he had the advantage, not on such an occasion a small one, of a reply. A very clear summing-up followed, and the jury, after some deliberation, convicted the accused.

It will be quite understood that I express no opinion as to the correctness or the reverse of this

verdict. I thought, however, that it was of such very grave importance that I advised that the two remaining indictments should be removed into the Court of Queen's Bench, which was accordingly done, and the sentence upon the person already tried was postponed until the result of the further investigations. These were not, however, proceeded with; no public prosecutor existing at the time, and it is likely that the expense deterred the young men, who had sufficiently vindicated their characters, from proceeding any further in the matter.

CHAPTER III.

STATE OF REGENT STREET.

Not a great many years ago—it was during the time that a valued friend of mine, and most excellent magistrate, presided at the Marlborough Street Police Court—a number of cases were investigated involving very serious charges against the police stationed in that district, and I am able myself to testify that to some extent, at all events, they were well founded.

Regent Street and the surrounding localities were frequented by women carrying on a miserable calling. The Quadrant especially was rendered almost impassable for decent people. The shopkeepers were up in arms, and bitter complaints were raised against the negligence of the officers. The inquiries, however, set on foot fully explained the reason of this. The constables upon the beat were in the pay of the worst and most troublesome of those who infested the streets, in consideration for which they allowed them to annoy the passengers with impunity; whilst those who were quiet and inoffensive had black mail levied

upon them by the most tyrannical and cruel means. If they refused to pay, they were taken into custody, had to pass the night in a wretched cell, were the next morning charged with annoying people and obstructing the footway, and although I know that Mr. Knox, having grave suspicions of the motives of the officers, threw what protection he could over the accused, a fine was often imposed, and further imprisonment followed in consequence of its non-payment. The wretched victims learned prudence, and obtained the necessary licence to pursue their unhappy trade. I have seen upon several occasions a female, of the class alluded to, place upon a post or window-sill a piece of money, and a policeman come up and remove it. At last the scandal attained such large dimensions that it became necessary to transplant the entire division to some other district. I have no means of following their career. They had probably to bemoan amongst the savages of the East the halcyon days they had enjoyed in the advanced civilisation of their former service. The resignation of Mr. Knox consequent upon his illness was a great loss to the public. He was a most conscientious and painstaking magistrate, but unfortunately he allowed his anxiety to do justice to prey upon a very impressible disposition, and ultimately to affect his health. I have had many conversa-

tions with him on the subject I am now dwelling upon, and I believe that he fully shared the opinion I have expressed as to the necessity of great caution in dealing with police testimony.

I will now relate an amusing adventure of my own which bears upon the subject. One night late—it might be early morning—I was in Piccadilly, and, attracted by a gathering of people, I came upon a policeman struggling with a drunken, powerful woman. She had either fallen or been thrown down, and he had fallen upon her. There were expressions of indignation being uttered by the persons around, and a row seemed imminent. I touched the officer lightly upon the shoulder, saying, 'Why do you not spring your rattle? You will hurt the woman.' He jumped up, and, seizing me by the collar, said, 'I take you into custody for obstructing me in the execution of my duty.' I remained perfectly passive, and in the meanwhile another constable had come up and had seized the woman, whom he was handling very roughly. At this moment Sir Alexander Cockburn, then Attorney-General, who was returning from the House of Commons, appeared upon the scene, and seeing a woman, as he thought, ill-used, remonstrated in indignant language with the officer, upon which the constable who had hold of me stretched out his other arm—whether reaching Sir Alexander

or not I could not see—and said, 'I arrest you also.' 'Arrest me,' exclaimed the astonished Attorney-General; 'what for?' 'Oh,' said my captor, 'for many things. You are well known to the police.' I cannot surmise what might have become of us. Possibly we should have spent the night in company with the very objectionable female on whose behalf we had interfered. Some people, however, fortunately recognised us, and we were released. I took the numbers of the officers, and, being determined to see the end of the affair, went next morning to the court where the charge ought to have been made, and heard that the woman had effected her escape, which, considering I had left her in charge of half-a-dozen officers, and that she was very drunk, was a remarkable feat of prowess.

With the concurrence of Sir Alexander Cockburn, I wrote a full account to Mr. Mayne (I forget whether at that time he was knighted), and after a day or two received an answer from some subordinate, treating my letter with great coolness, and saying that if I had any complaint to make I might go before a magistrate. To this communication I replied by a private note to the Commissioner to the effect that I should select my own mode of ventilating the matter. A very courteous reply, promising thorough inquiry, resulted from this further step.

I never heard anything more about it, and am sorry to say was not patriotic enough to take any further trouble in the matter.

There was one circumstance that struck me as of serious import. In the middle of the disturbance a tall man dressed in military apparel, and who certainly had not been present at the commencement, walked up and, addressing himself to the officer, said, 'I have seen everything. You are quite in the right. I am ready to give evidence. Here is my card.' Independent witnesses of this description are a dangerous addition to police testimony.

The following is an instance of the somewhat high-handed proceedings of the Home Office in the early days after the institution of the new police. There was a very worthy but not very wise magistrate who presided at Bow Street. He had been guilty of many eccentricities, but had escaped censure. It so happened that a constable was charged before him with taking bribes from the keepers of disorderly houses to induce him to suppress warrants entrusted to him to serve. I was instructed by the parish authorities to prosecute. There never was a clearer case, and as it was stated that it was by no means an isolated one, the sentence of a month's imprisonment was by no means too severe. Long, however, before this

term had expired, the officer was performing his duties as usual, and the magistrate received an intimation that his retirement would be accepted, and his valuable services rewarded with a pension.

I have already stated that, in my opinion, there is far too much publicity permitted by the police in connection with their proceedings; and with very great respect to the authorities at Scotland Yard, and especially so to a gentleman at the head of the detective department, with whom I have the pleasure of being upon terms of intimacy, and whose intelligence and industry I fully appreciate, I cannot think that the system pursued is a good one for the detection of crime and the discovery of offenders.

The publicity, rather encouraged than checked, tends to defeat the chances of success. It is known from one end of the kingdom to the other who are the officers having the charge of a particular inquiry, and the amount of information that they possess is blazoned forth; whilst the system of reporting the different steps taken to a central office produces delay which may be very prejudicial.

The old Bow Street runners did not inform the criminals whom they wanted to catch with what their trap was baited, and where it was to be laid, nor did they waste valuable time in making reports. They did not let the public know all that

they knew themselves, but they arrived at a conclusion from their own experience, and worked it out in silence and secrecy. I do not think that a detective in those days would have been guilty of the piece of flagrant absurdity that was exhibited but recently in the case of the murder committed upon Kingston Hill, when it was published to the entire world that the police possessed no clue, and that the murdered man had died without giving any information; by this means destroying certainly one chance of discovering the criminal through the instrumentality of a possible accomplice, who, if he had not been assured of his safety, might have made a confession. I suspect that old officers, if they had opened their mouths at all, would have been guilty of the pious fraud of saying, 'that they had obtained a full description of the murderer.'

The police also must frequently be much embarrassed by the proceedings of coroners' courts. These are often conducted by incompetent officers, at some low pothouse, where all the gossip of the neighbourhood finds vent, and where the information obtained is blurted out, and probably read with keen amusement by the offender who is wanted, and who thus learns how to keep out of the way. Secrecy and rapidity are two elements most essential for waging a successful war against the criminal

classes, and they happen to be the very ones most remarkable for their absence.

For two or three years previously to my call to the bar I resided with my father at the official residence of the Thames police at Wapping. He had removed there upon the death of Captain Richbell, who had previously occupied it. The entrance to it was from a narrow street called Old Gravel Lane. Its frontage, which still exists, looks out upon the river opposite to Rotherhithe. Here, but shortly before, existed Execution Dock, where the bodies of pirates might be seen dangling, hung in chains. The house abutted upon 'Wapping Old Stairs,' so it had some claim to poetry, and the neighbourhood was not without society, Messrs. Hodgson and Abbott, the brewers, residing within a few doors of the house occupied by my father. The former gentleman was better known by the name of 'Brown Stout.' I believe they were the first exporters of bitter ale to India. My father was now the senior magistrate, and upon him devolved the organisation and management of the police attached to the office. I have in a former chapter referred to this body; their duties were confined to the river, and to the localities adjacent to its shores. These included districts inhabited by very lawless classes, and as I frequently accompanied the officers whilst upon duty, I had many

opportunities of witnessing their conduct, and the power they possessed was considerable. I have seen the most serious disturbances quelled in a few minutes by the presence of two or three of them, and I do not remember any occasion when they received serious injury. They knew the localities well, and the character of the people who inhabited them, and were thus enabled to trace offenders with very marked success. They were well and kindly managed by my father, who possessed great influence over them, and they always resorted to him in cases of difficulty. Their discipline, although strict, gave them much independence, which certainly was of service when speedy action was required. I have often thought that officers organised upon a similar system, and attached to the different police courts of the metropolis, would be a most useful instrument both for the repression and detection of crime.

The districts over which my father's jurisdiction extended included streets and alleys inhabited by a class very difficult to manage. Irish and Jews of the humblest rank occupied the wretched dwellings of which they were composed, and the feuds between the two races often ended in squabbles that attained formidable dimensions. My father, after a time, was looked up to by the rival parties, and succeeded in creating a much more peaceful

state of things. In his efforts he was greatly aided by the rabbi and Catholic priest of the neighbourhood, with both of whom he had established a firm alliance.

He had a very high opinion of the social qualities of the Jews, and of their humanity and charity amongst themselves, and he found the Irish extremely amenable to kind treatment.

There was a man who frequently figured in the court during my early days at the bar, a short, dark, repulsive-looking fellow of the name of Aaron Smith, and his history was a very extraordinary one. He had been brought before my father charged with piracy, and there was no doubt that he had been one of a crew on board a pirate vessel. They had boarded a Dutch merchant ship amongst others, and been guilty of great brutality. He declared that he had been taken prisoner by the pirates, and acted under compulsion, and this statement was probably true. At all events, he was acquitted both in Holland and in this country, and flourished as a money-lender for many years after.

The time came when all was changed in connection with my father's jurisdiction. The new police was created, and the officers attached to the Thames became amalgamated with that body. The office became a court, and the business was

removed to Arbour Square, Stepney. The duties of the magistrate became simply judicial.

My father certainly distrusted the evidence given by certain members of the new force, and considered that they occasionally exhibited unnecessary harshness, and I can well imagine that he was not looked upon favourably by the authorities at the Home Office, in consequence of the expression of some of his views. He was also involved in a discussion in connection with the smoke nuisance, in which his decisions differed from their wishes upon the subject. They sent him an opinion of the Attorney-General, almost ordering him to be governed by it. He, however, adhered to his own construction of the law. He was too generally respected to be treated with overt indignity, but when he urged his claim to be removed to a more agreeable district, he was met with the doubtful compliment that he was too useful in his present position. At this time he resided in Cadogan Place, and the fatigue attendant upon reaching his place of business, added to other causes, obliged him to resign his office.

From all I hear, nothing can exceed the cordial relations that now exist between the magistracy and the executive, but, considering that the body out of which the former are chosen is the same as that from which the judges are selected, I cannot

help thinking that they should be put upon the same footing. There seems certainly no reason why a distinction should exist between their status and that of the gentlemen filling the office of county court judges, and it is only in accordance with constitutional principle that those who exercise judicial functions should be independent of official control.

CHAPTER IV.

ELECTION COMMITTEES.

THE practice before Parliamentary committees, although open to the entire bar, had been pretty much confined to a select few, who devoted themselves entirely to it. Previously, however, to the time to which I wish to direct attention, many eminent outsiders had conducted some of the more important inquiries. Coppock, one of the acutest of Parliamentary agents, had secured the services of Cockburn, whose qualities singularly fitted him for this description of business, and Thesiger and Austin found in him a formidable opponent. Edwin James also possessed all the qualities necessary for the work. He had great readiness, handled his facts amusingly but with considerable force, and was never tedious. He was an excellent Nisi Prius leader, and, although not possessed of any remarkable knowledge of law or profound scholarship, contrived to manage Lord Campbell better than any of his rivals at the bar. In 1867, the year after a general election, all those whose names I have mentioned had quitted the arena, and I was

retained in several of the contested cases. It was the last year that the House of Commons exercised this jurisdiction, which, as is well known, was subsequently relegated to the Common Law judges. The ground for this change was the supposition that the inquiries before committees resulted too often in decisions founded less upon the facts than the composition of the tribunal; and this certainly had been the case in former years. The politics of the majority were more considered by litigants than the evidence to be adduced; and if a member, under the unusual influence of conscientious feeling, voted against his party he was looked upon as little better than a traitor. It is extremely amusing to look back to some of the old trials. Two gentlemen, named Harrison and Joy, seemed to possess the greatest favour with the public, and their mode of doing business had at least the merit of originality. A decision could almost always be found for propositions however absurd, and the arguments of the counsel for the respective parties seemed to consist in pelting each other and the committee with cases; and it would have been strange indeed if the predetermination of the majority was not able to find some authority to justify it. A story is told of Harrison that he kept a kind of *vade mecum*, in which he entered up the different decisions of committees, and that upon

one occasion having quoted several in support of the view for which he was contending, he inadvertently left the book upon the table. His adversary picked it up and found, upon an opposite page to that which had been referred to, all the authorities on the other side, which he quoted in answer, much to Harrison's discomfiture, who, it is needless to say, never afterwards lost sight of his valuable companion.

Mr. Serjeant Merewether, who afterwards became Town Clerk of London, had considerable business in Parliament; and his son, Henry Allworth Merewether, an old friend of mine, was a deservedly successful practitioner. This gentleman was a very agreeable companion, and one of the most popular members of the Garrick Club. He did not like election petitions, and confined himself latterly to private Bills, in which branch of Parliamentary business he was opposed to Hope Scott, Beckett Denison, Rodwell, and others of like calibre, and must have been a man of considerable ability to hold his own, as he did for many years, against such opponents.

It is worthy of remark that for a few years previous to 1867, and very notably during that year, a great change of feeling exhibited itself in the election committees. Members had begun to look upon the obligation that they undertook from

a more serious point of view than they had done heretofore; a higher quality of advocacy had made itself felt; and there can be no doubt that strong and independent counsel do materially colour the proceedings of tribunals before which they practise. Moreover, public opinion began to assert itself, and indignation was felt that partisan grounds should govern judicial proceedings. These elements combined gradually produced a result which plainly developed itself in the proceedings before committees in this year of 1867. I was, as I have mentioned already, in many of the contested cases, and had opportunities of forming an opinion about most of the others, and also of hearing the remarks of very good judges upon the subject; and I have no hesitation whatever in saying that, in every instance, there was exhibited not only the qualities most calculated to elicit truth, but the most conscientious adherence to strict impartiality.

The tribunals were extremely pleasant to practise before, and the members that constituted them certainly were very competent to judge of the facts, having had their own experiences to be guided by, and within my observation an excellent feeling prevailed between them and counsel. I do not think that there existed so holy a horror for bribery as ought to affect well-regulated minds; in fact, the war waged against Parliamentary corruption does

not seem to have attained either practical or moral success, and an ordinarily acute observer must come to the conclusion that the virtuous denunciations he hears are in most instances mere shams. There is no force of public opinion honestly brought to bear against it. I should be glad to know whether the gentry in the neighbourhood have ever withdrawn their custom from a tradesman found guilty of accepting bribes, or whether any gentleman has been excluded from society because he has given them. Only during the present year I had the honour of being associated with the Attorney-General in the prosecution of some bribery informations tried at Maidstone. A solicitor, a leading one in the county, was called as a witness. He had been obliged to make a clean breast of it before the commissioners. He mounted the witness-box with a jaunty air, and, with a complacent smile upon his countenance, disclosed the organised system of bribery of which he had been contriver and manager. I doubt whether a single client will take his title-deeds out of this gentleman's possession, or treat him with less consideration. Another witness got up, he was one of the bribed, and was attended by several of his friends and co-bribees—I invent the word for the occasion. He gave his evidence in a jocular manner, and it was listened to with much hilarity

and evident admiration. Even in the House of Commons, where a good deal of verbal indignation is ventilated, the true feeling crept out upon a recent occasion, when the majority refused to issue a commission in a case where, according to public rumour, bribery and corruption had been rampant.[1]

I do not believe that the ballot will ever be effectual to prevent the practice, and, moreover, it introduces an additional moral taint. A voter may make a solemn promise, take advantage of the secrecy to break it, and of course tell lies to prevent the discovery of his treachery. I do, however, think that in charges of intimidation secret voting may be of service.

I noticed an observation made upon the trial of one of the bribery informations by a very learned judge, and one who takes just views upon most subjects, Mr. Justice Fitzjames Stephen, 'that probably the same feeling existed in the minds of many people upon the subject of bribery, as did upon a former generation upon that of duelling,' and to this I will venture to add, did upon Members of Parliament as to the duties imposed upon them in election committees.

My first appearance before a Parliamentary

[1] Whether the punishments recently inflicted upon comparatively insignificant personages will produce the desired result, remains to be seen. For my part, I suspect that they will be more likely to deter future juries from convicting.

tribunal was in a petition against the return of Mr Waddington, who was then Chairman of the Eastern Counties Railway Company, now the Great Eastern He was a personal friend, and entrusted his interests to me, although in this branch of business I was then quite unknown; I think he had been returned for Harwich—the place, however, is not material. His colleague was Mr. Locke, one of those engineers who have assisted in the marvellous change that now governs the world. I succeeded in keeping the seat for Waddington, but recollect the case less on that account than for the opportunities it gave me of enjoying Mr. Locke's society. I remember well his simple but graphic details of the sensations he experienced when after a tunnel had been finished, the supports were first removed; it was impossible to say that some precaution might not have been wanting, and that all those waiting anxiously for the result might not be immolated in one common ruin. How short was his span of life, compared to that of other benefactors of our age! He quitted it after he had conferred immense benefits, but before he had been able to enjoy the glory that he had so nobly earned.

I conducted, about this period, the petition against the sitting member for Bristol. The bribery was flagrant, there was really no defence

attempted, and I consequently succeeded without difficulty in unseating the sitting member.

One of the cases in which during the sittings of 1867 I was engaged, and which greatly interested me, was that against Colonel White for Tipperary. He was my client, and also a personal friend. He himself was perfectly pure; but the supporters of a candidate in an Irish election are rarely controlled by the dictates of strict prudence. He had been supported by the Catholic priesthood, and it was alleged that violence and intimidation had prevailed to a considerable extent on the part of the Colonel's supporters. My junior in the case was an Irish barrister, whose name, for reasons that may be imagined, I forbear to record, and I will therefore venture to furnish him with a fictitious one.

One of the witnesses supporting the petition, an officer of the Irish constabulary, was detailing a scene of violence in which several heads were broken and divers misadventures of the same kind occurred. He was asked by Mr. Cooke, the counsel on the part of the petitioner, who was the ringleader, and answered, Mr. O'Finigan; and upon being further questioned who that gentleman might be, up rose my junior, and, glaring at the counsel who had asked the question, said, 'I am Mr. O'Finigan, and I am not ashamed of my name.'

I was told that this gentleman intended to challenge me for putting upon him a gross insult, viz. that I would not allow him to cross-examine any of the witnesses. However, I succeeded in appeasing his wrath, and under the influence of a Greenwich dinner, at which I entertained him, we became excellent friends, and he was really a very good fellow, though beyond doubt a most enthusiastic partisan. Colonel White had certainly not encouraged any illegal proceedings, and the Archbishop of Cashel, his very warm supporter, had used all his influence to prevent them. I do not know of any case in which I have been engaged in which the decision, which was in favour of my client, gave me more sincere satisfaction. On this occasion the majority of the committee were opposed in politics to the Colonel.

During the time the proceedings were going on I saw a great deal of the Archbishop, who was a very highly cultivated gentleman. I received from him many courtesies, and it was with great regret that I heard of his death.

I do not think it would be possible to exaggerate the amount of bribery that was proved in the course of these inquiries to have existed. It was confined to no class—tradesmen, the squirearchy, the lawyers, and, by no means insignificantly, the clergy, all were implicated; and I cannot for-

bear to add that the amount of perjury necessary to conceal it was by no means deficient. Even if I remembered the details it would furnish neither amusement nor instruction to relate them. I can, however, recall one case that amused me intensely. A white-headed old gentleman, the agent of one of the parties, was in the witness-box. He looked the very embodiment of respectability. He was nevertheless subjected to a severe cross-examination by the opposite counsel, who suggested that he had been a party to distributing bribes. At last he turned his venerable face to the committee, incipient tears being visible in his eyes, and making a most affecting appeal to them, asked, in a voice broken by emotion, whether a man who had lived all his life in the borough, without a stain upon his character, ought to be exposed to the insult of such questions. Whether the committee were or were not affected by his appeal I cannot tell, but they unseated his employer, and I know that the venerable gentleman had actually received 500 sovereigns, which he had distributed most honourably 'in bribing the electors.'

There was another petition against the sitting member for Bristol during this year, in which I was engaged for the petitioner. One of the principal witnesses opposed to me was a physician in the borough, a gentleman of high position and

character. His appearance and manner were both greatly in his favour, and I confess that at first I looked with doubt upon my instructions that he was the main instrument of the bribery that had existed, and I consequently proceeded very warily to deal with him. It was long before I could get at any of the facts, but, after a time, it became plain to me that he was prevaricating, and ultimately this was evident to the committee, who over and over again cautioned him. At last, after long struggling on in his part, I forced out of him admissions of his thorough culpability, and the member was unseated. I refer to this case with some feeling of triumph; it was really an instance of the success of those principles I have endeavoured to lay down for cross-examination. I could not have proved any of the facts by independent testimony, but I formed a confident and, as it turned out, a correct judgment as to the complicity of the witness, and worked upon this assumption. I hope I may be excused for the vanity of recording that this effort met with a very high compliment from one of the most distinguished members of my profession.

Out of this trial, I believe, a case arose at Bristol before the Recorder, Mr. Serjeant Kinglake—a very learned lawyer, one of Lord Campbell's degenerates. It was against a solicitor, who, elated

at the result, had mounted upon a white horse, led a mob of people, and celebrated it with much noise, to the accompaniment of broken heads and windows. He was indicted for a riot. Collins, now leader of the Western Circuit, Montagu Williams, and myself were retained for the defence. Ribton, an old friend of mine, and a powerful advocate, prosecuted, as he did everything, with considerable energy and at great length. As our refreshers were very liberal we reconciled ourselves to this latter quality, which was more than rivalled by the Recorder. Under the auspices of Mr. Collins I saw many of the sights best worth witnessing in the town, and as the issue for our client did not involve very grave consequences, we passed our time agreeably enough. When the jury were impannelled, I thought I recognised the face of one of them, and learnt afterwards that he had been a witness before the committee at the House of Commons, where I had handled him rather roughly. After a vehement reply from Mr. Ribton, and a summing-up in which all the constitutional questions of the last century and former ones were dwelt upon by the Recorder, the jury retired, but could not agree—there was one obstinate juryman. The Recorder would not discharge them, intimating that they might sleep upon it. This, however, precluding the enjoyment of supper, did

not suit the fancy of the majority. They retired into their private room, from which shortly came forth sounds of discord.

After a pause they returned into court, the obstinate juryman looking hot and dishevelled, and evidently not inclined for further intercourse with his brethren.

A verdict of not guilty was pronounced, and my client was again at liberty to mount his steed amongst the cheers of enthusiastic supporters.

CHAPTER V.

ELECTION JUDGES.

As might be expected from the character of the tribunals by which Parliamentary committees were superseded, an endeavour was made to introduce definitions applicable to the different questions raised before them, and to bring the proofs within their compass. Evidence was restricted by the rules prevailing in the ordinary courts, and each judge had to perform the province of a jury, in construing facts and intentions, as well as to lay down the law.

Very few of the judges had experience of elections, and no doubt the machinery adopted by candidates presented some novel points for their consideration. Generally, I think, their decisions gave satisfaction to independent observers, and certainly were arrived at with great care and attention.

I was engaged in several petitions tried before the following judges:—Baron Martin, Justices Lush, Willes, Blackburn, Mellor, and Grove; all men of great learning and experience. I think that the first case I was in under the new *régime*

was that of Norwich, before Baron Martin, and this was speedily disposed of by unseating the member. It was always pleasant to practise before this learned judge. He was a thorough man of business, a sound lawyer, hasty, but very agreeable to counsel, and I imagine possessed no small practical experience of the 'doings' of an election. I recall with great satisfaction a case in which I was counsel before him at Bradford. My client was Mr. Forster, the sitting member, and now so well known as Secretary for Ireland.

Of course the result was of vital importance to this gentleman, and although he was personally clear from all imputation, there were circumstances extremely difficult to deal with, and I felt a very considerable amount of anxiety. Mr. Forster had himself been away during the canvass, and it was admitted that he was strongly opposed to any unfair influence being used; but there had been proceedings at the municipal elections which had shortly preceded the borough one, by which it was sought to affect his seat. My task was rendered more difficult from the fact that the same judge had unseated Mr. Ripley upon grounds some of the features of which were similar to those relied upon against my client, and in conducting the case my endeavour was to distinguish it from the one previously decided, and in this

effort I was successful, and justly so. Since that time I have had the pleasure of meeting Mr. Forster, when he has been a guest of my friend Sir Bruce Seton, at the Union Club, and he has expressed himself in very kind terms of my conduct of the case. I also received at the time a letter from Mrs. Forster, who had been intensely anxious, and expressed herself very gratefully to me. I asked permission of Mr. Forster to record these opinions, and received from him the following letter :—

August 22, 1881.

My dear Serjeant Ballantine,—I am glad you are publishing your reminiscences, and look forward with pleasure to their perusal.

By all means make any use you like of anything I said about your defence of me when under trial. I have never lost my sense of the value of that defence, or of its great ability.

Yours very truly,

W. E. Forster.

I hope that my publication of the above may not be considered a proof of foolish vanity, but I estimate very highly the opinion of Mr. Forster, and consider that if he is under an obligation to me, so to a much greater extent are the public.

If I assisted upon this occasion in benefiting the Liberal party, I subsequently, before the same judge, aided in maintaining the seat of Mr. Smith for Westminster, thus conferring a boon upon the

Conservatives. I am bound, however, to say that my leader, Mr. Hawkins, now upon the Bench, was the principal contributor to this result.

Notwithstanding some faults that I have already indicated, Mr. Baron Martin, when obliged by his increasing deafness to resign, was a great loss to the Bench.

In recording successes of which I am proud, and by the result of which the public have benefited, I am very pleased to mention that in a petition against Mr. Serjeant Cox, the then sitting member for Taunton, I succeeded in annulling his election, and, upon a scrutiny, seating my old friend, then Mr. James, since that time become Sir Henry, and now Attorney-General; and upon a petition against him after a subsequent election I was successful in maintaining his seat.

If the lives of the puisne judges who have occupied the Bench during the last generation could find a biographer, no one would fill a brighter or more honourable space than Lord Justice Lush, but recently deceased. During the time he was at the bar and upon the Home Circuit I was constantly associated with him both in public and private, and after his promotion I frequently appeared before him. His career exhibits a course of unwearied industry and unswerving integrity from his earliest youth. He would not be pro-

perly described as a powerful advocate, but he was singularly lucid and always a perfect master of the facts. As a judge, unmoved by partiality, and, although strict in his views, patient, considerate, and humane; as a man, his kindness and charity had ensured to him the affection of every one who knew him. He tried several of the election cases in which I was engaged, but I do not remember any that presented features worthy of recording.[1]

Lord Justice Bramwell was a good judge, and restrained upon the bench a natural irritability of temper. I also conducted cases before him, but not of great interest except to the parties. I cannot forbear saying that I never saw any one more anxious to assist a counsel who had a difficulty in explaining some proposition, or more patient in its investigation. It is considered by the profession that his retirement from the Appeal Court is a very serious loss.

No one can deny that in the selection of Mr. Blackburn as a puisne judge Lord Campbell conferred a benefit upon all connected with judicial proceedings. He possesses a powerful intellect, great grasp and solidity, and has the reputation of being a profound lawyer. A Scotch accent does not improve a naturally harsh voice,

[1] I had hoped that my kind old friend would have read my appreciation of him. I wrote it originally in his lifetime.

and his demeanour can scarcely be termed graceful, or his manner pleasant, but these are superficial objections. There is nothing of harshness or intentional discourtesy about him; I should doubt whether he had ever been what is called a ladies' man, and his gallantry was put to a severe test in the following cases, and certainly did not show itself to be co-extensive with his law.

In the first of these I appeared to defend the seat of a gentleman who, though only recently connected with the Government, is a very distinguished and useful member of the House of Commons, and would have been a great loss. This was Mr. Brassey, member for Hastings, who was petitioned against by Colonel Calthorpe, the distinguished Crimean officer.

One of the means of bribery suggested was the purchase of unnecessary apparel by certain ladies, energetic supporters of the sitting member; and it was amusing to witness the face of the judge during these millinery investigations, and to hear his ejaculations upon the number of yards apparently necessary to clothe the female form. It was evidently a subject which his brain was incapable of grasping without making inquiries that were repellent to his sense of modesty. I trust that I may be forgiven for mentioning that I received the greatest assistance from suggestions given me by

Mrs. Brassey; she showed the greatest acuteness, and I consider that the result, which was ultimately given in favour of her husband, was in a great measure due to her exertions. I was not at all surprised at the charming account written by this lady of the cruise of the *Sunbeam*, which I have read with real pleasure, both for its own merits and the memories it recalled of what was a very pleasant inquiry.

The Wallingford election petition, tried before the same judge, was a severe infliction upon his patience, and involved him in a comical position. In this I was again counsel for the sitting member, a Mr. Stanley Vickers, a distiller. It can do no harm now to confess that I never was engaged in a case in which, notwithstanding the vehement assertions of my client, I felt graver doubts. Indeed my conscience almost gave way under the strain of this conviction, and probably would have done so but for the support and assistance of my friend Montagu Williams, who was with me in the case.

Sir Charles Wentworth Dilke was the petitioner. The election had been conducted by the supporters on both sides with no inconsiderable warmth, which may be accounted for by the fact that the ladies of the locality had taken a very active part in it, and were warm partisans—it might; indeed, have been called a ladies' battle, and

they appeared in court arrayed in the colours of the respective candidates. But the warmth of their advocacy was made so apparent upon the first day, that on the second they were divided, and placed upon opposite sides of the court. This was the occasion of the incident I have referred to. Mr. Justice Blackburn had taken his seat and composed himself for the performance of his duties, when a lady, having arrived late, had to pass him to get to her party. Now his lordship's legs being no unimportant portion of his body, her flounces became seriously entangled in her attempted passage, and for the moment the judge was lost sight of by the audience in front, whilst the lady presented the appearance of sitting upon his knee. The judge's voice was heard in no musical tones, and when relieved from the embarrassment he declared, in emphatic language, 'that he never had been in such a position before;' and this I am disposed to believe.

I remember, amongst the allegations. there was a charge against the sitting member of personal bribery; he was said to have committed it whilst in the company of a lawyer, a clergyman, and a brewer. He and the two former stoutly denied the assertion; the brewer was vacillating, and, oddly enough, upon the very day that he was to be called was thrown from his horse, and the in-

juries he sustained prevented his appearance as a witness.

The counsel for the petitioner had great difficulties to contend with, from the case not having been well got up; and Mr. Justice Blackburn was not then much experienced in the trial of election petitions. He did not consider that the case was brought home with sufficient certainty, and, after an inquiry lasting for several days, Mr. Vickers was declared duly elected.

I do not remember being in more than one election case before Mr. Justice Mellor—that of Petersfield, to which I have already alluded. In this poor Alfred Thesiger was opposed to me, and exhibited his usual skill. The petition was decided in favour of my client, but subsequently reversed upon a legal point. This learned judge possessed a great fund of common sense, and other qualities well calculated to adorn the bench. He has always been a most kind and valued friend to me. Mr. Justice Grove, distinguished for his deep and varied scientific acquirements, and also an excellent lawyer, tried the petition presented against Sir Henry James.

I am obliged to say that in the opinion I have formed of the other judges I cannot include Mr. Justice Willes, and in the case of a petition against Sir Robert Peel and Sir Henry Bulwer, the sitting

members for the borough of Tamworth, his decision was received with the most unbounded astonishment, whilst the reasons given for it, and the observations accompanying them, were certainly unintelligible to any ordinary mind. There were 130 men employed by an acknowledged agent, all but nineteen of them being voters. They were paid for two days' work—the nomination and polling. There was nothing for them to do, and they did nothing, except vote for Peel and Bulwer. Mr. Justice Willes assumed that they were hired to obtain popularity for the man who employed them. He certainly added that he did not think that such a mode of gaining popularity by an agent just before an election was desirable. Still more extraordinary was the mode in which, in the most inflated language, he held up a land agent of Sir Robert's to admiration, and smothered him with praise. There was a collection of small tenements that had been held by generations of the same tenants; they had practically descended from father to son, although it was usual for the occupiers to appear on a quarter-day at the bailiff's house and go through the form of renewal. The agent canvassed these poor people, hinting to one that something should be done for repairs; to another, a woman, that it would be better for her husband to vote for Bulwer; and conveying threats and promises throughout the entire neighbourhood.

The election took place; and, on the quarter-day following, these poor people attended as usual for a renewal of their leases, and in every instance where they had voted adversely it was refused. They were, in addition, treated with the utmost harshness; and in some instances, when they were unable to find a place to go to, higher rents were extorted from them—as the judge admitted—illegally. It would occupy too much space to record the panegyrics lavished upon this gentleman. But not content with this, the judge fell foul of me, with pretty much the same delicacy and taste with which he had praised the agent, concluding with the following not very intelligible sentences: 'Allow if you will that he (the agent), like others whom I have known coming from the same part of the country, is somewhat dark, and hard, and angular in business matters, I am not to judge of his moral character. But I have known such men, and I have known them not only as truthful but as kindly as those who could gloze, and who could be base in matters of figures and facts.'

At the time he uttered this remarkable tirade I had left the court and gone to London, but received a letter from one of my friends giving me an account of it, and saying that the judge had made his intention most marked by direct-

ing his words towards the space that I had left. I wrote to him requiring an explanation, to which he answered that he had not intended them to apply to me, which did not exalt my ideas of his accuracy, although it prevented me from taking other steps. His oration, which took up a considerable time, ended by retaining both members in their seats.

I cannot account for his otherwise incredible conduct than by supposing that the position of the respondents exercised, perhaps unconsciously to himself, an influence upon his mind, and threw a sort of glamour over his understanding. He was always apt to over-refining, but upon this occasion his ingenuity surpassed the bounds of common sense, and absolutely travestied the facts of the case to force them into the decision on which he had determined.

I have never made any concealment of my opinion of the behaviour of Mr. Justice Willes in this case, and some time after it I received a letter from Mr. Peel, an uncle of Sir Robert, who had been his opponent at the election, requesting to know whether I had advised the petition, and whether the facts had been correctly stated to me. I answered in the affirmative, and added that the facts proved upon the trial were much stronger than those laid before me.

Some time afterwards a piece of plate was

presented to Mr. Peel by his supporters and friends, and upon this occasion he referred to my letter in the following words:—

'The evidence collected was submitted to Serjeant Ballantine and Mr. Henry James, and they advised that a petition should be presented, which was accordingly done. Having heard the evidence given in court, he (Mr. Peel) was satisfied that bribery prevailed extensively, especially in the case of the 130 men, who were employed by the agent of one candidate, and paid by the agent of the other. Intimidation was also clearly practised, because threats were used, and afterwards carried out; but upon the trial astonishingly subtle distinctions were drawn between treating and reasonable refreshment and as to agency. He believed that there was but one opinion in the country with regard to the trial, and that was that the failure of the petition was a miscarriage of justice.

'Serjeant Ballantine having been asked whether he would advise a petition in a similar case again, said he should certainly do so, and be confident of a different decision from any other Judge upon the Bench, and that the grounds of the decision of Mr. Justice Willes were totally inexplicable to him. Mr. James in answer to the same question said that there were many reasons why he should not express an opinion about the judgment.'

Mr. Justice Willes possessed the reputation of being one of the most profound and able lawyers upon the Bench. His habits, as far as I had any opportunity of observing them, exhibited no cordiality, but I had always been upon perfectly good terms with him. He was in criminal cases a merciful judge, and impressed me as having a hatred of injustice and tyranny. He was, however, singularly emotional, and in another election petition in which I was engaged—it was that of Penzance—he exhibited this trait in a ridiculous manner. An allegation of bribery against a doctor, I am not sure that he was not a veterinary surgeon, was strongly relied upon, and appeared to me to be fully made out; but his lordship almost burst into tears at the idea of a member of that 'noble profession' being guilty of such a crime. It is more than probable that with this disposition and an enormous strain upon his mind, his naturally great intellect was shaken from its pedestal, and subsequent events have led me to believe that this was the cause of eccentricities which I should be sorry to attribute to motives of a more unworthy character.

CHAPTER VI.

THE UNION CLUB.

In the course of the foregoing pages I have frequently mentioned the Union Club, and as it is one of the earliest, if not the very first established upon the now existing basis of the principal clubs, it may not be altogether uninteresting to give some short sketch of its history. It is much older than is generally supposed, having come into existence in the early part of the year 1805. At one time there seemed to be a chance of its being christened The Cumberland, its original meetings being held in a house of that name, but I can only find one occasion when for some twenty-four hours it bore that name; always after it was known by its present one.

The first meeting of which any record exists took place on February 20 in the year I have mentioned, and on this day the first committee was chosen; it was headed by the Marquis of Headfort, Lord Roden, and General Ormsby. There were upon it several officers of high rank and a Mr. John

Spencer Smith, who I fancy was a member of the great banking firm of Smith, Payne, and Smiths.

It does not appear by the minutes to which I have access what was done between that time and a meeting that took place upon February 3 in the following year; this was held at Cumberland House, and called a meeting of managers. Their names do not appear, but I conclude they consisted of the committee previously chosen; and a person of the name of Raggett, who was, I fancy, a tavern-keeper, was appointed under the description of proprietor and conductor, and authorised to procure a house, and on March 16 following there was a further resolution in which Mr. Raggett was called master, but no business was done until February 3, 1807, in which the terms of subscription were settled at ten guineas a year, and one guinea for the servants, a guarantee being given to Raggett that there should be no less number of members than 250; that gentlemen should be elected by ballot, which was to take place *between* 11 *at night and* 1 *o'clock in the morning.*

It is strange that amongst the minutes in possession now of the club I cannot find with any certainty what proceedings took place between that period and January 30, 1812, nor even where the club was held. I am inclined to believe it

was at the house of the Duke of Leeds in St. James's Square; the club, however, does not, up to that date, appear to have attained any considerable success, as I gather from the proceedings that then took place. Mr. Raggett expressed a desire to throw up his engagement, as there were not a sufficient number of members to make it remunerative, and in consequence it was determined that fifty new ones should be elected, which seems to have been immediately done, and the number readily obtained. When this had been achieved the club appeared to float on without difficulty. Amongst the number there were no less than fifty-six members of the House of Peers, including the Dukes of York and Sussex, Richmond and Devonshire, the Marquis of Wellesley, Duke of Argyll, Lord Granville, Leveson Gower, Marquis of Hertford, Lord Peterborough, Lord Stair, and, most celebrated of all, Lord Byron.

There were also members of the firm of the Barings, and also of the Messrs. Hoare, and, amongst names still remembered, Sir Jonah Barrington, Quintin Dick, and Mr. Labouchere.

At this time it was in the strictest sense of the term a proprietary club, which I believe was the case of all others then existing. The principal of these were Brooks's and White's, the Travellers' and the United Service; and so it continued until

the year 1821, in the August of which it was established substantially in its present form, and I believe was the first club that adopted it. A committee of five was appointed to carry it out, and the success that followed is not wonderful, as one of the greatest men of any age assisted in the task, the Right Hon. Sir Robert Peel. The other members were Viscount Gage, Lord Lowther, Pascoe Grenfell, and George Hammersley, and under their auspices the Union Club took the from under which, with slight variations, it still exists. The plot of land upon which the house was built was secured at a rental of 306*l.* per annum, and has now forty years to run, and the house itself was built under the direction of Mr. Smirke, the architect, who was selected by the committee in consequence of having designed that occupied by the United Service. I cannot find that there are any distinguished members of the Bench or Bar amongst those originally elected, indeed I do not recognise a single specimen; neither is the Church represented. I suppose that in the early period of the century graver and more improving occupations than those of club life occupied the time of both professions.

I became a member in 1852, and the Bar had numerous representatives by no means undistinguished at that date, or shortly after: Jervis,

afterwards Chief Justice of the Common Pleas; Maule, a judge of the same court; Lord Justice Knight Bruce, Mr. Montague Chambers, Lord Justice Selwyn, Mr. Justice Byles, and many others. There was also a good sprinkling of eminent bankers, including two or three members of the Messrs. Goslings, one of the oldest firms in London, and from whom I have received many acts of kindness. One of them used to play the moderate whist to which players were confined by the rules of the club. I can remember him so well. He looked, what he was, the picture of a gentleman of the old school, as he rode his thorough-bred cob quietly along the park.

There was another banker, a very old gentleman, who made his appearance only occasionally. I have already mentioned him as a friend of Sir Frederick Pollock, and as one of his great supporters at Huntingdon, where he carried on his business. His name was Veasey, and he was the oldest banker in England; I believe I am right in saying that in that capacity he used to preside at an annual dinner of the members of the profession. His age must have been very great at the time of his death, but almost to the last he maintained a jaunty air and juvenile dress, with old-fashioned courteous manners. In one sense he was part of my family history, having been trustee in different settlements

in which my mother was interested. He occupied a house in the town of Huntingdon that had once belonged to her.[1]

On one occasion, some years before his death, I happened to be in this town upon professional business, and dined with him. He took me before dinner into a little side room, in which there was an old-fashioned window, and pointing to one of its panes said, 'There your poor mother scratched her name with her diamond ring; it shall never be removed in my time.' And there, truly enough, was 'Betsy Cole,' written at least eighty years before. It was not easy when I was a candidate to secure election to the club, and, notwithstanding the distinguished men I have mentioned, lawyers were unpopular; but I was fortunate in my sponsors. Sir Frederick Slade, the Queen's counsel, was one of them, and Sir Henry Webb, a man greatly courted in society and liked in the club, was the other. Sir John Bayley and Sir Thomas Henry, the chief magistrate of Bow Street, very warmly supported me. All those whose names I have mentioned are dead, as also many others whom I recall with a feeling of sadness, and with whom I have enjoyed many pleasant hours. As I have already mentioned, I was intimate with Mr. Justice Maule, and

[1] He dressed in imitation of George IV., but this was his only foible that ever I discovered.

have expressed the high opinion I had of his intellect. Lord Justice Knight Bruce possessed many brilliant qualities, and certainly was one of the most vivacious companions that I ever met with. Selwyn seemed a very kind and easy tempered man, and was a great scholar, an accomplished lawyer, and the picture of health. I have heard he lost his life at a comparatively early age through an unskilful operation.

I cannot close my memories of the club during, to me, its old days, without a few more words of Sir Thomas Henry, who remained a sincere friend to the end of his career. At some private houses where we frequently met he was an immense favourite and always welcome guest. As a magistrate he commanded, and justly, great respect, and was in fact an excellent officer. His legal knowledge had been obtained by study, and he never made any mark at the bar. He was appointed when unusually young, as were two of his cotemporaries, Norton and Hardwick. They were all three gentlemen; and the two latter, as well as Henry, fully justified their appointment. His death was very sad. It was his duty on race days to sit in a temporary office at Epsom, and on one ungenial occasion he got chilled and was not attended to, although his illness ought to have been apparent, and for a long time he was kept out in the cold; a very little care

and a slight restorative would have saved a valuable life probably for many years.

I came out of the club one day and found Selwyn talking to a gentleman in the guise of a bishop; he introduced me to him. It was Lord Auckland, Bishop of Bath and Wells. Selwyn left him at the corner of Pall Mall, and his lordship and myself walked together up St. James's Street, down Piccadilly, to Hyde Park Corner. Of course there were many respectful salutations to him, and several people we met recognised me; they must have felt a good deal of surprise at the company in which they saw me. He was very courtly and pleasing, but I could not forbear at parting to take off my hat, and with a low bow said, 'My lord, you have ruined my character.' He gave a good-humoured smile, and expressed a hope that he had improved it.

The foregoing incident brings to my mind a trip I had to the Derby in very different company. There were four of us, all men, in a barouche, and one of my companions had brought his butler with him, who was clad in a white neckcloth. A lot of roughs recognised me, and one of them shouted out, 'There goes the serjeant with his domestic chaplain.' We very soon made him doff the garb that involved me in such a calumny.

The following story has gone the round of the

profession, but has probably not travelled beyond it. It relates to two Queen's counsel; one of them at all events deserves some description. He was a man who had fought a singularly energetic battle against feeble health with great success, and, possessing strong good sense, had become one of the most eminent members of the bar. He was fond of the turf in a prudent way, and knew a good deal about it. 'He would have made a splendid jockey,' once said one of his admirers; 'what a pity he took to the law!' This, however, was not his opinion, and he realised the largest fortune ever made at it. Moreover, he loved the work and the money he made by it.

The other party to this anecdote was of a different type. He had been obliged to work to live, and did not love it. He had, however, obtained reasonable success. He liked amusement, and sought it, and considered a Long Vacation ought to be devoted to nothing else. One day, just after the conclusion of this period of legal holiday, the two counsel met. They were old acquaintances—had been on the same circuit. 'What have you been doing?' was the natural question of one to the other; and an account was given by the latter of his trip upon the Continent. 'Well,' said the former, 'I have not stirred from town, and have been doing lots of work.' 'What is the use of it?' was the

observation made; 'you cannot carry your money with you, and if you did it would soon melt.'

His money-making is now at an end, and at present his earnings are in no danger. He is in the service of his country, and seems to love work just as much now as when very tempting figures were endorsed upon every case in which he was engaged.

CHAPTER VII.

MADAME RACHEL.

In one of the worst haunts of the metropolis there resided in the days that I practised at the Middlesex Sessions a woman of the name of Rachel. Her name and her occupation were not unfrequently brought to the attention of the magistrates; a further description of them would not be desirable.

I saw her, without knowing either her name or calling, behind the scenes at Drury Lane Theatre. Her ostensible object was to sell articles of dress to the female employées. Her real business was brought to light by one of them throwing the contents of a glass of porter into her face in response to an insulting proposition; she never to my knowledge appeared there afterwards. The next that was heard of her was keeping a shop in Bond Street, ostensibly for the sale of perfumes and cosmetics, but in reality for the purposes of extortion and robbery. On a certain occasion the wife of Admiral C—— unwarily entered it for the purchase of some trifling article. Madame

Rachel was singularly plausible, and induced her customer to purchase from time to time other matters to a small amount, and sent in an exorbitant bill for them, which I believe was paid, and Mrs. C—— discontinued her patronage. Upon this happening, a claim arrived amounting to 1,000*l.*, upon the allegation that Mrs. C—— had been cured by Madame's aid of some skin affection; dark hints of other matters accompanying the claim. There was not a word of truth in the assertions or insinuations, and the Admiral most properly resisted the claim, which was scouted with disgust and indignation.

Madame Rachel, however, was not discouraged, and still professed the power of making ladies beautiful for ever, and, strange as it may appear, there were many who yielded to the pleasing belief. Amongst them was a lady, who once upon a time had been a beauty, was possessed of a fortune, and thought that it could not be better employed than in securing a continuance, or rather reproduction, of her charms, and she was persuaded that the effect already produced had inflamed the heart of a nobleman of distinguished appearance, well known about town, and that a letter fabricated by Madame Rachel was the genuine outpouring of that gentleman's sudden and enthusiastic passion. She obtained from her

dupe large sums of money, and, emboldened by success, demanded larger, and actually caused her victim to be arrested for a supposed debt. This brought matters to a climax, and friends interfering, Madame made her appearance at Marlborough Street Police Court, and was committed for trial at the Central Court. The quondam beauty—a skeleton encased apparently in plaster of Paris, painted pink and white, and surmounted with a juvenile wig—tottered into the witness-box. The folly she had exhibited and her childish mode of giving evidence probably led some of the jury to distrust her, and they were discharged without a verdict.

Upon a subsequent sessions Rachel was tried before Mr. Commissioner Kerr, a gentleman of very sound sense, and was without much hesitation convicted and sentenced to five years' imprisonment. I prosecuted upon both occasions, and on the first, through a false impression, made an observation about the nobleman whose name had been mentioned, which I afterwards felt was not justified and I greatly regretted. The fact was, that there was nothing more impudent perpetrated in the case than the use of his name by Madame Rachel, and for which it turned out there was not the slightest pretence.

The prison discipline did not apparently possess

much influence upon Madame, who took to her old courses immediately the term had expired, and, by a similar process to that she had already gone through, found her way back again to prison, and there died; not, however, before she had done much mischief, darkened many a home, and led many girls, who but for her might have been happy and contented, into misery and crime. She was one of the most filthy and dangerous moral pests that have existed in my time and within my observation.

In the year 1845 I was counsel at the Central Court in a case that excited interest at the time of its occurrence. It presented some curious facts, and although no doubt could arise as to the guilt of the accused man, there was nevertheless a mystery connected with the deed which was never explained.

A gentleman of respectable position was found lying with his throat cut, and perfectly dead, in a lane between what then was Chalk Farm and Belsize Park; his name was De la Rue. Whilst a constable was standing by his body, a young man dressed in a gentlemanly manner came up, made some remark to the policeman, leant over the body, examined it, and felt the pulse. He appeared perfectly calm and unembarrassed. His name was Hocker, and he was the murderer. On the body of the deceased was found a letter

signed Caroline, asking De la Rue to meet her at the spot where the body was found; this letter was proved to be in the handwriting of the prisoner, and property of value that had belonged to Mr. De la Rue was found upon Hocker's person.

The impulse that brought him back to the body of the man he had slain was indeed strange, and the coolness with which he felt and examined it showed marvellous power of self-control. The trial took place before Mr. Justice Coleridge, and is one of those which exhibited the excellent qualities as a judge that he possessed. The difficulty that arose of explaining in any intelligible way the letter or the connection that existed between the parties made him extremely anxious, and my instructions furnished no clue to solving the difficulty, yet I felt there might be some explanation, and for the first and only time in my life that I ever did so, I requested and obtained an interview with the prisoner. It took place in Newgate, during the mid-day adjournment of the Court, and remains vividly upon my memory. He was quite young, scarcely twenty years old; he was seated upon a wooden bench in a small square cell, whitewashed, and without other furniture, himself quite calm and self-possessed. He would give no further statement than that I had already received. I told him that I could not

put it forward with any hope of success, and advised him, if he insisted upon adhering to it, to make it himself. He said he preferred to do so, and accordingly he conveyed it to the jury without any exhibition of nervousness, although, I am confident, without hope. If the facts proved had left any possible conclusion but that of guilt it would have been enforced upon the jury, who had no alternative but to find a verdict of guilty, and he was necessarily condemned to death, which he suffered, showing no sign of either repentance or fear. Mr. Clarkson led me in this case, and concurred in my view.

Whilst visiting my chamber of horrors I may be excused for exhuming another trial in which I was also engaged, leading on this occasion for the Crown; it was the case of Franz Müller, a German, charged with the murder of Mr. Briggs in a railway carriage. The prosecution of Lefroy, which has recently caused so much attention, has, from its similarity in many of its circumstances, brought it into notice. And the two cases are in many respects alike, both being conclusively proved by circumstantial evidence, and in both the prisoner declaring his innocence almost to the last. It is very satisfactory to feel that the means used after the conviction of the latter criminal to raise an issue that had never been suggested when it

could have been properly tested were not countenanced, either by the learned judge who tried him or by the Home Office authorities.

I will now call the attention of my readers to some more amusing legal incidents; the locality, although a near neighbour of the Old Bailey, is not redolent of crime, it is the Court of Queen's Bench, Guildhall. Sir Alexander Cockburn is the presiding judge, and the trial about to take place one of considerable interest. There were several members of the aristocracy present, amongst them the Marchioness of Ailesbury, Sir Edward Bulwer Lytton, the Earl of Wilton, and Lord Harry Vane; whilst the Church was represented by the Bishop of Lichfield and Dr. Robinson, the Master of the Temple. The occasion that drew these noble and reverend personages to an unaccustomed scene was an action brought by Lieutenant Morrison against Admiral Belcher for libel. The plaintiff called himself an astrologer, and was the author of 'Zadkiel's Almanack,' whom the Admiral had practically denounced as a cheat and impostor. Mr. Serjeant Shee was counsel for Lieutenant Morrison, I was retained for the defendant, and the ground upon which he founded his attack was that some years before the plaintiff had asserted that he was upon terms of acquaintance with certain spirits of another

world, who exhibited themselves through the medium of a crystal ball, and there was no doubt that he had claimed this remarkable privilege, and had exhibited proofs of it before the different distinguished people who appeared in court as his witnesses, although they did not all of them fully support his claim. The presence of the clergy might be accounted for by his most intimate friend and constant visitor being St. Luke, who conversed in the English language, and associated with him upon familiar terms. A young person who gave the name of Eva also visited him; but the most pleasant of his acquaintances was Titania, who appeared to have been permitted by her lord and master to be a frequent guest. One of the ladies who was called as a witness on the plaintiff's behalf at the trial deposed that she had seen her mother reflected in the ball, and also a knight clad in complete armour, but of whose conduct she did not entirely approve, as there was a young lady attired in pink, to whom he was evidently paying very marked attention. The witness who gave this evidence was neither young nor flighty, and gave it with much earnestness and solemnity, ending by declaring that the scene would never pass from her memory.

I was somewhat surprised to see Dr. Robinson amongst the believers, as from all I had heard of

his discourses in the Temple Church he was by no means of an imaginative turn of mind.

The reading of the almanack, and the different auguries connected with the birth of great men, together with prophecies as to the date of their dissolution, afforded much amusement. Brougham was bound to have been dead, but unfortunately had survived the event foretold, and several others had disappointed the predictions of the sage. Much laughter was occasioned by a description of the singular brilliancy presented by the planets Mars and Venus upon the birth of Lord Palmerston. The Chief Justice Cockburn revelled in the case, which terminated in a verdict for twenty shillings, the judge refusing to certify for costs. Sir Edward Lytton Bulwer was examined, but did not support the plaintiff's supernatural claim, although he evidently disapproved of the levity exhibited in court.

Admiral Sir Edward Belcher was a most distinguished and gallant officer. He had commanded two or three Arctic expeditions, but was not, however, a popular officer. He was very much of a martinet, although, as far as I was able to judge, by no means of a cruel or inhuman disposition; latterly he was not employed according to his expectations, and showed a good deal of disappointment in consequence. I knew

him very well; he was singularly well-informed, although somewhat speculative. Private matters, of the rights of which none but the parties to them could form a judgment, had greatly embittered his life. There was a singular physical fact connected with him—he had entirely lost the sense of taste; this he frequently complained of, and could not account for. A friend of mine, an eminent member of the Bar, suffers in the same way, but is able to trace the phenomenon to the shock that he suffered in a railway collision.

Not many years ago it became my duty to represent an American gentleman named Slade, who, like Mr. Morrison, professed an intimate acquaintance with the world of spirits, and also obtained a considerable number of believers. A scientific doctor alleged that his proceedings were mere tricks, and undertook to expose them; and a magistrate, before whom evidence to this effect was given, committed him as a rogue and vagabond to gaol. From this decision he appealed to the Court of Quarter Sessions, where I appeared as his counsel, and an amusing though not very edifying scene occurred. The bench presented the appearance that it does upon the gala days, when the morals of dancing and music are discussed by solemn tongues. Justices filled every corner of it, and no one entertained much doubt for what

they had come. Mr. Edlin, assistant-judge, occupied the chair. I took a purely legal objection to the conviction, which was argued at considerable length, and the chairman was prepared to decide in its favour, but to this his brethren demurred, and the Court adjourned. After a very considerable delay, they returned, Mr. Edlin took his seat, and amidst signs of astonishment exhibited upon the faces of the magistrates, quashed the conviction, which they subsequently declared he had no authority whatever to do, and indeed stated that he acted in direct antagonism to the opinions of the majority. No doubt this was the case, and quite unwarrantable, but at the same time he was the proper person to decide a point of law. There were only two or three others upon the bench who knew anything about it, or could understand the argument, even if they had tried to do so, and his judgment ought to have been decisive upon it. It would be an unsatisfactory state of things that the guilt or innocence of an accused person should be determined by the vote of a majority. It must be remembered that the conviction, if affirmed, involved imprisonment, and was therefore just as serious in its result as if it had been tried before a jury, who must be unanimous, and are under the obligation of an oath. I am aware that magistrates sit constantly with the

chairman to decide appeals, but these are rarely in sensational cases.

Mr. Slade took an early departure from a land in which his powers had been appreciated in so unsatisfactory a manner to himself.

CHAPTER VIII.

RISK ALLAH.—LANDSEER.—COCKBURN.

About the same period, I met three remarkable personages: Risk Allah Bey, Sir Edwin Landseer, and Sir Alexander Cockburn. It is many years ago, in the days when the world was all before me. The first was a foreigner for some time a celebrity in the law courts. The second was an artist whose works will never be forgotten, and whose genial qualities will never be surpassed; the third, a brilliant orator, accomplished lawyer, and ultimately Chief Justice of England.

Thackeray, in his novel of 'The Newcomes,' remarks how easy the entrance is into society of a foreigner possessing agreeable and plausible manners, without those formalities with which it fences itself against the inroads of its own countrypeople. Risk Allah was handsome, his manners polished, his costume picturesque. I did not admire his face, and when many years afterwards I saw him under the circumstances I am about to describe, I thought it repulsive. He was apparently upon terms of some intimacy with Sir Alexander Cockburn

(who, like himself, was an accomplished linguist), and a foreigner whose subsequent career was sufficiently romantic to warrant description. In the year 1857 he married an English lady of the name of Lewis, who possessed a considerable fortune. Connected with her, in some way that I do not now remember, was a lad named Charles Readley. Risk Allah was entitled in the event of his wife's death to the possession of her fortune. The lady, shortly after he married her, fell into bad health, to which after some time she succumbed; and Risk Allah succeeded to a large sum of money, and to the care of the young man, who was of weakly constitution and suffered from epileptic fits. He was entitled to 5,000*l.*, which reverted upon his death to Risk Allah. Readley had also made a will and insured his life in that gentleman's favour. Such being the condition of affairs, these two were in March 1865 staying at the Hôtel du Rhin at Antwerp, and happened to be the only visitors in the hotel. Readley was alive, and, according to the evidence of a chambermaid, was, on one morning of the above month, at seven o'clock sleeping quietly. At nine o'clock he was found dead in his bed, with a wound in his throat, and a discharged gun by his bed-side.

It was suggested that he had committed suicide; but suspicion attached to Risk Allah, who was

apprehended and subsequently put upon his trial before the Supreme Criminal Court at Brussels, charged with the murder of the young man. Much and very lengthy evidence was given on both sides, and long arguments supplied by able advocates; and the result was, after a patient summing-up by the presiding judge, that Risk Allah was acquitted.

He was also accused of complicity with a person named Osman in a number of frauds. There was no doubt of the roguery of this person, and that his proceedings had been very extensive, but the Court came to the conclusion that Risk Allah had been a victim and not an accomplice in his offences.

There was another matter which threw suspicion upon him in connection with two forged cheques. This, however, was fully gone into before the tribunal at Brussels; and of this also he was acquitted.[1]

A number of experts upon hand-writing were called on both sides, and also experts to show that from the position of the body Readley might have shot himself.

Some articles appeared in the 'Daily Telegraph' newspaper commenting upon the trial with a great deal of force and ability, but there

[1] These three charges were, in accordance with Belgian law, included in one indictment.

could be no doubt that the guilt of the accused was more than suggested, and Risk Allah brought an action for libel against the proprietors. After an acquittal by a competent tribunal, it would not have been right or prudent to plead a justification, and under these circumstances, the only question that could be submitted to a jury was that of damages, and the case came on to be tried, in June 1868, before Sir Alexander Cockburn. Mr. Serjeant Parry appeared for Risk Allah, and made an extremely eloquent speech on his behalf. Mr. Coleridge, the present Chief Justice of England, who led me for the 'Daily Telegraph,' said all that could be urged under the circumstances. Sir Alexander Cockburn summed up with perfect fairness, and the jury returned a verdict for 960*l.*, which, under all the circumstances, could not be considered exorbitant.

On July 2, in the same year, Risk Allah made another appearance before the same judge, again in the character of a complainant, and again the victim, by his own account, of a series of disastrous circumstances in which he was the injured person. These occurred after his adventures in Belgium, and the story was developed in an action brought by him in the Court of Queen's Bench against the British and Foreign Marine Insurance Company for the sum of 3,000*l.*, for which amount he held an insurance in that company. Mr. Serjeant Parry

was again his counsel, and I led for the defence. The story Risk Allah told was a very remarkable one. He was, he said, previous to the occurrence afterwards detailed, considerably in debt, and being moved by the desire to pay his creditors, he collected from a variety of sources the amount he claimed from the company; this he turned into specie, and it realised 3,000*l.* in gold. He kept his good intentions to himself, none of his creditors heard of the favourable news, nor did he blazon forth to strangers the information, or exhibit the money, although several persons were shown the parcel said to contain it. He secreted it about his person, which was quite natural, as he was then at Constantinople, where, as in other great cities, all people do not possess such honest dispositions as he did. The only memorandum he had verifying his possession of the money was contained in a pocket-book also upon his person. He knew that the noble sacrifice he was about to make would leave him penniless, but he had determined to dedicate his life to his country, and enlist under the renowned chieftain, Omar Pasha. Having taken the precaution of insuring his treasure with the company I represented, and hugging his valuable freight close to his body, he embarked in a boat on the shores of the Bosphorus, for the purpose of reaching the ship that was to carry him to those climes where he

could lighten his conscience and his pockets; but Providence, it would appear, does not always watch over the virtuous, or prosper their efforts, however intended for the benefit of others, for, just as he was stepping on board, souse he went into the sea.

Fortunately for himself, Risk Allah was an excellent swimmer, and, reaching the top, was rescued; the bag remained at the bottom; and his misfortunes did not end there, for he might still have felt a happy consciousness that his note-book would show to the world his unluckily frustrated intentions. Alas! here again cruel fate pursued him, for the good Samaritan who had rescued him from drowning deprived him even of this consolation by picking his pocket of the valuable document. So that, beyond the credit that could be attached to his own relation, he had not a scrap of evidence to support the claim he made against the company for the loss, and it is obvious that there were no witnesses that could be called for my clients, so that I was obliged in reply to rely upon the improbability of the story and Risk Allah's antecedents. I commented upon the extraordinary features that had characterised his life, and upon the strange positions in which he had contrived to place himself. I ventured to suggest that, however innocent he may have been, the perils he had incurred would naturally have induced him to protect himself from

suspicion in subsequent transactions, that nothing could have been more easy than to have obtained a dozen witnesses to prove the contents of the bag, and also the means by which he had obtained them. The case, as I have said, did not admit of my calling witnesses. To my great surprise the Lord Chief Justice took á strong view in favour of the plaintiff. I am confident it was a sincere one, although I think that a feeling of sympathy had created it rather than a calm judgment which ought to have governed his views. He was extremely eloquent, and appealed strongly to the jury in favour of Risk Allah, pointing out that my speech had been pure declamation, and that I had called no witnesses, ignoring altogether the impossibility of my doing so. The jury, after deliberating for a long time, were ultimately discharged without giving a verdict, one of them remarking, in relation to Risk Allah intending to pay his creditors, 'My Lord, I cannot swallow that!'

Risk Allah never afterwards, to my knowledge, made any other appearance upon our shores, and what is his true history will never, perhaps, be disclosed in this world.

It will be within the recollection of those who have perused the account of my early days, that in Serjeants' Inn, Fleet Street, at the time my father resided there, so also did Mr. Wilde, afterwards

Mr. Serjeant Wilde, Solicitor General, Chief Justice of the Common Pleas, and Lord Chancellor. He had only obtained the degree of the coif when I was first called to the bar; however, I remember upon one occasion being his junior, and although I cannot recall either the name or nature of the case, I have a very distinct recollection of a consultation at his chambers, which lasted from eight until-twelve o'clock. He was probably one of the most laborious and painstaking men that ever practised, and in many respects the late Sir John Karslake reminded me of him. Like him, his earnest and anxious attention to work impaired his health, and brought on, as it did with Sir John, severe neuralgia, amounting in fact to tic douloureux, which resulted, as was probably the case with the latter gentleman, in softening of the brain. He also bravely conducted causes of great importance with infinite skill whilst suffering the acutest agonies. This was the case with the celebrated appeal in Small and Attwood, in the House of Lords, and in which he succeeded in obtaining a reversal of the judgment pronounced by Lord Lyndhurst in the Court of Exchequer. He obtained permission to argue the case without his wig, in consequence of the acuteness of his suffering.

An amusing circumstance occurred in the middle of his argument. His client had made

him a present of a pair of carriage horses, and one day shortly after this event his servant came into the breakfast-room with a very long face and told his master that Mr. Attwood was dead, at which naturally he was much shocked. Upon inquiry, however, it turned out that his coachman had christened the two horses Small and Attwood, and that it was one of these that had departed this life.

I remember one occasion illustrative of the necessity of adapting punishment to the opinion of the public—it was after Wilde had become Chief Justice, and he was presiding in the Crown Court at the Kingston Assizes. He deferred sentencing the prisoners convicted upon the first day until the following morning, and then sentenced several of them to be flogged; there was not another conviction during the whole assizes.[1] He was a very pleasant judge to counsel, but inclined to be severe to criminals. As is well known, he married the morganatic widow of the Duke of Sussex. who, I believe, survived him.

I met him once after his retirement at Wiesbaden. He was staying at the Hôtel de Quatre Saisons, amusingly nicknamed the Quarter Sessions, from the number of lawyers that patronised it.

[1] The sentences may have been on a later day; upon this point my memory does not serve me, but I remember well the effect.

He was then manifestly in bad health, although I did not discover any mental weakness; he was pleased with the attention I was glad to pay him, and rewarded me with much pleasant gossip. He had a very great admiration for the talent of Mr. Adolphus, and confirmed the view that I have already expressed of that gentleman, that, but for his temper, he would have become a very distinguished member of the bar. Lord Truro and Sir Frederick Pollock, whilst poles asunder in politics, had been all their lives fast friends; but although each had led a life of intense labour, the mental results were very different, which may be accounted for by Sir Frederick being so polished and accomplished a scholar, whilst Lord Truro was entirely uneducated. I believe he was the uncle of Lord Penzance. There was another very great friend of Lord Truro, a man of ability, Matthew Davenport Hill, very much of the type of Lord Truro himself, and he also was a poignant sufferer from a similar malady, tic douloureux. When Truro was Chancellor he was anxious to make Hill a judge, but unfortunately he had got into some scrape by disclosing a communication intended to be confidential, and the Cabinet put such a pressure upon the Chancellor that he was forced to give up his intention, and appointed Martin, the son-in-law of his old friend Pollock.

I do not know whether it was from Truro or Pollock that I heard the following incident. When they were both at the bar, the latter was retained to defend a clergyman in Norfolk for a serious, and indeed, although he was out on bail, a capital offence, and in a consultation that gentleman admitted his guilt to the counsel. Sir Frederick felt that this knowledge would embarrass his conduct of the defence, especially as it was a question of the credit of certain witnesses, and requested and obtained permission to give up his brief, which came afterwards into the hands of Sir Thomas Wilde, to whom the same admission was not made, and he obtained an acquittal. Pollock had no doubt that it would have been his duty, after accepting the retainer, to conduct the case, if his client had insisted upon it.

I never met Lord Truro afterwards, but with him and Pollock terminated a generation of great lawyers.

CHAPTER IX.

MR. LANDSEER.

In a former chapter I have mentioned a meeting of literary and theatrical personages, and others who delighted in such society, held at the old and well-known tavern called the Piazza in Covent Garden. They did not assemble very early, indeed nowadays they could not have met at all. The stern command of policeman A. would have barred their entrance. At that time, however, taverns as well as clubs were open at all times, and the hours chosen by those who frequented the assembly in question were generally the small ones.

Conversation was the order of the day, or night, which made it rather remarkable that a gentleman who could not hear a word that was said should have been one of the most constant visitors. This was Mr. Landseer, a brother of the celebrated artist, himself an engraver of reputation, but unfortunately stone deaf.

I cannot, however, recall him to my memory without feelings of gratitude, if only for the pleasure he afforded me upon one or two occasions of meeting the eminent artist. I know of no one

whose works have for me a greater fascination. He has spiritualised animal life, and has given it an affinity to the human race, and yet has neither destroyed nor altered its natural characteristics. We see told upon his canvas the nobility, of which in the higher animals so many examples have been proved to exist, and in dealing with those which fill a humbler space in nature he has created a poetry essentially his own. One wonders what those two squirrels are saying to each other. Evidently they must have discovered a feast of filberts, or some other great event in their woodland lives. Sir Edwin was, as far as I could judge from the little I saw of him, very unaffected and kindly, as indeed from his works he must have been, and the following anecdote shows that he had no small sense of humour.

I had the honour of having him upon one occasion as a client, it is as far back as 1862; the question involved was undoubtedly one of art although not of such a character as might have been expected. The plaintiff's profession was that of a tailor, a very eminent one at the west end of London; and he sued Sir Edwin for the payment for a work that he had executed by that gentleman's order.[1] It was a coat which Sir Edwin declared

[1] I presume that other items had probably been admitted and money paid into court to meet them.

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violated every principle of high art, and he refused to countenance such a deviation from its true principles. The case was tried in the Exchequer, before (I believe) Mr. Baron Martin. The plaintiff entered the witness-box, and a very distinguished-looking personage he was. The coat was produced, and the judge suggested that Sir Edwin should try it on; he made a wry face, but consented, and took off his own upper garment. He then put an arm into one of the sleeves of that in dispute, and made an apparently ineffectual endeavour to reach the other, following it round amidst roars of laughter from all parts of the court. It was a common jury, and I was told that there was a tailor upon it, upon which I suggested that there was a gentleman of the same profession as the plaintiff in court who might assist Sir Edwin. This was acceded to, and out hopped a little Hebrew slop-seller from the Minories, to whom the defendant submitted his body. With difficulty he got it into the coat, and then stood as if spitted, his back one mass of wrinkles. The tableau was truly amusing: the indignant plaintiff looking at the performance with mingled horror and disgust; Sir Edwin as if he were choking; whilst the juryman, with the air of a connoisseur, was examining him and the coat with profound gravity. At last the judge, when able to stifle his laughter, ad-

dressing the little Hebrew, said, 'Well, Mr. Moses, what do you say?' 'Oh!' cried he, holding up a pair of hands not over clean, and very different from those encased in lavender gloves which graced the plaintiff. 'It ish poshitively shocking, my lord; I should have been ashamed to turn out shuch a thing from my establishment.' The rest of the jury accepted his view, and Sir Edwin, apparently relieved from suffocation, entered his own coat with a look of relief, which again convulsed the court, bowed and departed.

The next scene, a very pleasant one, not in date, but in my memory, that I will present to my readers occurred, alas, many years ago! and great indeed are the changes that have taken place since. A house in the neighbourhood of Kilburn, spacious and elegantly furnished; the time is early summer, the hour about eight o'clock in the evening; the dinner has been removed from the prettily decorated table, and the early fruits tempt the guests, to the number of twelve or so, who are grouped around it. At the head there sits a gentleman no longer in his first youth, but still strikingly handsome; there is something artistic about his dress, and there may be a little affectation in his manners, but even this may in some people be a not unpleasing element. He was our host, William Harrison Ainsworth, and whatever may

have been the claims of others, and in whatever circles they might move, no one was more genial, no one more popular. He had at this time fully won his spurs. Jack Sheppard had through his graphic pen become a hero to the masses, and was not less popular because very proper people shook their heads and exclaimed that it was a very evil example; and not only did the novel pay the circulating libraries, but became the subject of a very popular drama. Poor Paul Bedford played one of the characters—Blueskin—in which he rendered with great gusto the song of 'Jolly Nose.' No one can say that the song of 'Jolly Nose' was refined, but it laid hold somehow of the whistling public. At last, as I have heard, Mrs. Keeley made the character of Jack so fascinating that the licenser of plays was obliged to stop the performance. How well I can remember her charming little figure upon the stool in Jack's workshop, and her sweet voice singing the naughty sentiment contained in the words, 'And I'll carve my name on the dungeon stone;' and winding up with 'Nix my dolly, pals.'

I have travelled away from the pleasant dinner-table, but, before I leave it, there are two guests certainly I must not forget; one is Dudley Costello, a great ally and intimate friend of our host, an indefatigable inditer of pleasant tales

to various periodicals, good humoured, sociable, and with a large stock of amusing conversation. In the prime of life, full of spirits, and apparently of health, he seemed fully launched upon the path of success and fame. Some very short time after this I missed the usual signs of his pen, and one day not long after this dinner party I was returning from, I think, Strasburg to Paris, and at one of the intermediate stations I saw a ghastly-looking object staggering under a carpet bag; I went forward to assist, when to my horror I recognised the mere skeleton of my poor friend. He thought, he said, that he should try some waters, but his face told a tale that was only too soon verified. I carried in his bag, and pressed his hand in bidding adieu, and, although not given to sentiment, fancy that I scarcely restrained my feelings, and indeed, as I think over the scene, can scarcely do so now.

Opposite to me at the dinner-table of which I have given a description sat a good-looking young fellow, a member of the same profession as myself, got up with infinite care. He was seated next to a venerable lady, rattling and shining with diamonds; these two were engaged in the innocent occupation of cracking bon-bons and reading the mottoes. Harrison Ainsworth, pointing my attention to him, said, 'He (naming him) will make his

way in the world.' The prophecy has turned out correct, and I am bound to say that even now, if it would give an old lady pleasure, he would still spell proverbs with her out of pure good nature. I frequently visited Ainsworth at a house he occupied at Kemp Town, Brighton, but of late years have lost sight of him. I am glad to see within the last few days, upon the club-table, that he still figures in the world of literature, and if ever he reads these lines, I do not doubt that he will remember that pleasant entertainment at which he was the accomplished host.[1]

About, or soon after this period, I became acquainted with a character very different from any of those who graced the table of Harrison Ainsworth. It was a lady, and she had claims to celebrity. Her name was Lola Montes, and her life had been one of adventure, in the course of which it was suggested that she had not been particular as to the number of her husbands. She was, I believe, of Spanish origin, and certainly possessed that country's style of beauty, with much dash of manner, and an extremely *outré* style of dress. She had been upon the stage, and attracted the admiration of a monarch, and the anger of his subjects. When, subsequently, she

[1] I will not erase the foregoing lines, although the object of them has passed away.

visited this country, she fascinated a young gentleman named Heald, who married her. It was stated that she had been previously married to a Captain James. The friends of Mr. Heald made a charge against her of bigamy, and it was through being consulted upon this occasion that I became acquainted with her. She had to appear at Marlborough Street Police Court upon two or three occasions. I forget whether the charge was ultimately abandoned, or whether she left England before any result was arrived at. My impression was that it could not have been substantiated.

In the year 1842 a piece of insolence was offered to Her Majesty, whilst driving, by a person named Bean, a cripple. He contrived to make his escape, and his deformity being his most noticeable feature, no humpbacked person could escape the vigilance of the police, until, fortunately for this unhappy race, the real criminal was arrested. He was prosecuted for misdemeanour only, and convicted, and suffered some period of imprisonment, which apparently cured the miserable desire for notoriety that had alone dictated the attempt. He was alive until recently, and might be seen at the different wharves from which the river steamers were accustomed to start, hawking newspapers, in a civil and inoffensive manner.

Her Majesty exhibited upon the occasion that

wonderful coolness and self-possession which have distinguished her under the most trying circumstances.

It was from about the date of this trial that my business increased at the Central Court and I was entrusted with cases of some importance; in recalling, however, those years, I am unable to remember many personal incidents. I was engaged in one trial which exhibited, what I have already remarked upon, the extreme hesitation of Mr. Baron Alderson to permit a conviction in capital cases. The prisoner was a very young man, named Connor, and the learned judge certainly strained every point in his favour. The jury were out for several hours, but ultimately convicted him, and he was executed. I was also concerned for a person named Good, for the murder of a woman with whom he was living at Wimbledon. He also came to an unfortunate end.

A Captain Charitie also entrusted me with his defence. This was upon an indictment removed into the Court of Queen's Bench, the charge being that he, in conjunction with a director of the East India Company, was engaged in selling cadetships, and unfortunately the case against him was fully proved.

There was another proceeding in which I was counsel for a gentleman named Healy, who had

made an imputation upon Mr. Wakley, the coroner for Middlesex, for his conduct in a matter which I think is not unworthy of being recorded. A private soldier belonging to the 7th Hussars had been cruelly flogged. He had certainly been guilty of a very grave offence, that of striking his corporal with a poker. The sentence was 150 lashes, which he underwent. He was permitted to stagger to the hospital, and there died within a few hours. The medical men of the regiment certified that his death had not in any way resulted from the flogging; this was apparently absurd, and very discreditable, and it is by no means wonderful that a jury, under the direction of Mr. Wakley, and after hearing the evidence of the very eminent surgeon, Mr. Erasmus Wilson, should come to the opposite conclusion, and return a verdict accordingly. Some strictures made by my client in a medical journal were very severe upon Wakley, who moved against him for a criminal information, but I was able to show the court that the complainant had provoked the attack, and the rule was discharged. At the same time I consider that the exposure and investigation of this affair have been a lasting benefit to the community. Such a punishment upon any human being is horrible, and naturally directed public attention to the subject, and, I imagine, has been the

means of abolishing the lash both in the army and navy. I have already referred to the application of it in the instance of crimes attended with violence, and for them it is efficient and proper; the perpetrators of such offences are cowards as well as ruffians. Imprisonment creates little if any terror in their imagination, probably they are well acquainted with gaol life; and according to accounts apparently authentic, there are means by which its hardships may be alleviated. It is certain that the discipline rarely if ever produces a good result, and when an account appears in a newspaper of some atrocious act of violence, it is constantly stated that the perpetrator is a released convict. The lash, however, is viewed by these wretches with abject terror, and I am confident that the pain they are made to feel is the best protection, in the absence of the punishment of transportation, that can be afforded to a peaceable public.

CHAPTER X.

CHIEF JUSTICES.

TENTERDEN, Denman, Campbell, Cockburn, have each during my connection with the legal profession occupied the highest place on the Common Law Bench. Each after his own fashion has administered justice, and they are remarkable instances of an observation I have already made of the differences of character exhibited by men filling the same position. Of Tenterden I have scarcely a recollection; I have seen him, and I think of a sour old man, with the manners of a pedagogue. The description given of him by Lord Campbell, in his 'Lives of the Chief Justices,' confirms my memory in this respect. He makes, however, a curious mistake in an anecdote he relates of him. Having described his origin, which was being the son of a barber at Canterbury, and his beginning life as a chorister boy in the cathedral of that city, he tells a story that Mr. Justice Richardson, the distinguished judge, used to relate. In going the Home Circuit with Lord Tenterden the two judges visited the cathedral of Canterbury together, when the

Chief Justice, pointing to a singing man in the choir, said, 'Behold, Brother Richardson, that is the only human being I ever envied. When at school in this town, we were candidates together for a chorister's place; he obtained it, and if I had gained my wish he might have been accompanying you as Chief Justice, and pointing me out as his old schoolfellow the singing man.'

Now, the fact is, that this story was narrated by Baron Richards, and its scene was York Cathedral, but whether the fortunate rival of Lord Tenterden was present there, and could have been pointed out, I do not know. It certainly did not occur at Canterbury when the judges were going the Home Circuit, as Canterbury is not one of the assize towns, and the nearest locality to it is Maidstone, which is at a very considerable distance, only reachable by posting, at a sacrifice of time that the judges were not likely to expend for a visit to the cathedral. I do not remember Campbell going the Home Circuit; if he did, the blunder is unaccountable. I heard a story of the circumstances under which Richards was offered the judgeship by Lord Eldon. He was a Welshman, and happening to be in the Court of Chancery, the Chancellor threw him a slip of paper with these words written: 'Dear Taffy,—What do you say to a puisne Baron?' I believe that he accepted the offer upon

the understanding that he was to become Chief when a vacancy occurred. Of Denman I have said my say, as also of Lord Campbell. The last occupant of the office was by no means the least remarkable of the four, and his character would form a curious study; it is those traits that were patent from which alone I have the power of judging, for although I knew him, and occasionally associated with him in private, from my earliest years at the bar, I never was on terms of intimacy with him; I more nearly approached it during the last three or four years of his life. Cockburn was one of those men who, like Erskine (as I have heard), although small in person, did not look so. No one would for a moment have thought him insignificant, and although his face was decidedly plain, it had when smiling a peculiar charm. His voice was very melodious, of which fact he was a little too well aware, and always willing to make the most of the effect it was calculated to produce. With ladies his manners were deferential, and, if gossip was to be believed, had been fully appreciated. As an advocate he was equal to any one I ever heard at the bar. He was fond of amusement, and sought it through many sources, but he mastered the most complicated facts with ease, and his industry never deserted him. He exhibited at times a polished vein of sarcasm,

great skill in analysis, and, upon occasions that called them forth, powers of impassioned oratory. He was constantly pitted against Thesiger, no unworthy opponent, and fully maintained his position, and in some notable cases obtained unexpected success. I have already mentioned the trials of MacNaghten and Palmer. The same results would probably have been attained by much inferior advocacy in both these cases, but few men at that time in the lead could have steered with such consummate skill. It perhaps may seem that with Follett at the bar I place Cockburn too high in the scale of advocacy; it may be so, but my experience of the latter distinguished counsel does not furnish me with examples by which to modify my judgments. Cockburn's reply in MacNaghten's case was described by Cresswell, one of the presiding judges, as the finest speech that he had ever heard. Cockburn became member for Southampton, and very soon made his mark in the critical arena of the House of Commons, and upon the occasion of the great debate of June 24, 1850, impugning Lord Palmerston's foreign policy, he was put forward to defend it. I remember very well his speech; it took the House by storm, and in no small degree conduced towards the victory obtained by the minister. From that period Cockburn moved on quickly, filling

successively the offices of Solicitor and Attorney General, and ultimately those of Chief Justice of the Common Pleas and of England. I suspect that even with this flood of success and accumulation of honours, a lingering disappointment remained that he had not grasped the seals. A true appreciation would not be formed of his qualities as an advocate and the versatility of his mind if I did not refer to his practice in the committees before he entered Parliament. In election inquiries it might naturally be expected that he would be successful, as they were peculiarly of a character for which he had already shown his capacity; but he was equally fortunate in the management of private bills, and fought the famous fight of the narrow against the broad gauge, supported by Lock, against Austin and Thesiger, backed by Brunel and a host of scientific talent.

The triumph of Palmerston was followed by a black day for England. The most trusted of our statesmen perished through an accident, and it was long before the nation ceased to deplore the death of Sir Robert Peel.

I cannot assign to Sir Alexander Cockburn as a judge the almost unqualified praise that I have done as an advocate. He carried naturally the qualities that had distinguished him in that capacity to the bench, and exercised them without

sufficient discretion. It is in my judgment a great mistake to think that a judge ought to keep back his own opinions from a jury, but they ought to be conveyed calmly and without passion, and after due consideration, but unfortunately Sir Alexander Cockburn was extremely impressionable, and constantly at the outset of a case would express with great confidence an opinion which he subsequently would not have been sorry to recall. The evil result, however, had been frequently accomplished before he was able to correct it. It must also be admitted that he too often sacrificed matter for effect, and sentiment captivated him more than the graver questions involved in a suit. I cannot say that these were small faults, but I never doubted that he was anxious to do justice, and his manner in doing it was usually courteous; and notwithstanding his occasional impetuosity he gave his unswerving attention to any inquiry that he was presiding over. A more thoroughly humane man never occupied the seat of justice, and he afforded counsel every assistance and consideration; it is impossible that a greater contrast could exist in this respect than between him and his predecessor.

Cockburn was verging upon eighty years old when he died, but to the last exhibited no failure of intellect, or, so far as I could observe,

of physical power. After sitting in court the whole of the day he was to be seen leaving the private door, and marching off with as sprightly an air and as active a gait as if he had only realised the half of his years. He lived as long as I remembered him in Hertford Street, Mayfair, and there I have seen him surrounded by books, evidently occupied by some engrossing literary labour. I have already alluded to his acquaintance with modern languages, and I believe that he was an accomplished classical scholar. He presided, after the death of Lord Campbell, at Serjeants' Inn, where he added greatly to the conviviality of the table; and when the affairs of the society were wound up, I ventured, without any sanction from my brethren, to send him the remainder of some old port wine, which he greatly enjoyed, and which I have shared at his table. Upon the occasions that I dined there he was extremely entertaining, not unwilling to recount former triumphs in the profession, and certainly affording me amusement in doing so. I reminded him once of a painful incident to which we were parties.

We were engaged to dine with one of his oldest friends, a gentleman named Phinn, a barrister by profession. He had held high office in the Admiralty, but had quitted it, and was

practising at the Parliamentary bar. He resided in chambers in St. James's Street, and on the occasion of which I speak, Cockburn and myself met at the door, and learnt to our horror that our expected host had just fallen down dead. The account that we received was that he was going upstairs to dress, that a loud shriek was heard, and that he was found extended and lifeless.

I called in Hertford Street one Sunday three weeks before the death of Sir Alexander, and found him as usual in his library hard at work. He was engaged in a work upon venery, of which a portion had already been published. He seemed well in health, though not in his usual spirits, but he spoke of the opening of the New Law Courts as if he anticipated being present. He presided after this in his court, and did not show, as far as I observed, any signs of his approaching end. In the account that I have given of the trials in which Risk Allah was the plaintiff, I have intimated my opinion that he took a prejudiced view in his favour, and I shall hereafter have to comment upon his demeanour in the proceedings against the claimant to the Tichborne baronetcy and estates. It is also impossible to approve of the tone that he adopted in his controversy with Lord Penzance, whilst the temperate and dignified bearing of this latter judge deserves

warm admiration; but in these proceedings the industry and research of the Chief-Justice were signally exhibited.

Whatever were his faults they were those of impulse, and directed more to the support of the weak than in favour of harshness or oppression, and under his auspices the Court of Queen's Bench sustained its dignity, and commanded the respect of the public and the profession. A pleasant figure has disappeared from society, and a great name is erased from the annals of our times.

When first I met the subject of the above sketch, there was a cotemporary of his, moving in the same circles, also accomplished and popular. His name was Walsh. When I was in the lowest class at St. Paul's School he was in the highest, and when I joined the Home Circuit he was leader of the Kent Sessions. He married a lady of mature age, but possessing considerable fortune. When, many years after meeting him in London society, I was staying in Florence, I heard that he had a villa there, and sought him out. He was in a deplorably hypochondriacal state, and nothing seemed capable of rousing him. Some time after this I was taken professionally to the house of a medical man in the Finchley Road, to assist in the examination of an alleged lunatic, and there I found my poor friend, hopelessly and

miserably insane. I have every reason to believe that he was treated with skill and kindness, although I utterly disapprove of private lunatic asylums, it being naturally to the advantage of their keepers that the patient should remain under their care.

It is not many years ago that I became acquainted with a pregnant example of this evil. I was asked by a member of the bar to visit his brother at a private lunatic asylum of high class. He was confined there contrary to his brother's wishes, who did not think he was judiciously treated or required confinement. The family were wealthy, and a large sum was paid for the maintenance of the gentleman in question. I accordingly went down, and, calling at the house and sending in my card, requested permission to see the patient. I was told that the proprietor was not at home, and that in his absence I could not be permitted to do so, although I produced the brother's authority. I insisted, and threatened to move the Court of Queen's Bench if the refusal was persisted in, and at last I was admitted, and found the patient lodged in a very handsome suite of apartments, opening out upon some beautiful grounds. He made no complaint of his treatment, and was manifestly under the influence of insane impulses; but my astonishment was extreme, upon looking at the literature

with which he was supplied, to find that it was of a character eminently calculated to foster the peculiar form of disease to which he was subject. An enquiry was subsequently held before a master in lunacy; the result was that he was released from the asylum, and put under the charge of a skilled person, and, subject to such superintendence, permitted his liberty. His removal was opposed by the proprietor, who lost by it a net profit of at least 600*l.* per annum.

My old friend Charles Reade has described in works of fiction, with great power and ability, the evils that may arise from these institutions when in unscrupulous hands; and the existence of such men as Dr. Tuke, and others whom I could name, whose sense of honour and general character place them above all suspicion, does not in my judgment make the system one to be trusted or approved of, and I am afraid that the protection intended by the law to be afforded by independent opinions is too often imperilled by a near connection existing between the proprietors of these asylums and the medical men who certify for the reception of persons supposed to be lunatics.

The whole subject of insanity, as I have elsewhere endeavoured to show, deserves supervision —the nature of it, its obligations, and its treat-

ment; and if the statistics upon it are correct —and it is true that of late years there has been a great increase of the malady—no social evil better deserves a thorough legislative investigation.

CHAPTER XI.

EXTRAORDINARY WILL CASE.

THE beautiful neighbourhood of Matlock, in Derbyshire, was kept for some years in a state of excitement by local circumstances that created a romantic interest.

They were the subject of various legal proceedings. The House of Lords, the Court of Chancery, Lord Chief Justice Erle and Lord Chief Justice Pollock, had all tried their hands at a satisfactory solution, and at the end of eight years they reached the Court of Queen's Bench, where, with the assistance of a respectable complement of counsel and solicitors, and an intelligent jury, directed most ably by the Chief Justice of England, they were ultimately disposed of.

George Nuttall lived the whole of his life at Matlock, his native town. He was a land surveyor, much respected, and must have been a good business man, as at his death, which happened at the comparatively early age of fifty-four, he was possessed of landed property to the amount of nearly 3,000*l.* per annum, and some 10,000*l.* in

the Funds. He had no near relations. In September 1854 he had made his will. His mode of doing this was peculiar. A Mr. Newbold was his solicitor and also an intimate friend; this gentleman prepared it, but the testator copied it in duplicate. He was an illiterate man, and in what purported to be his copies, and there was no suggestion against their authenticity, were to be found several instances of words wrongly spelt. I wish to avoid as far as possible technical details, and it will be sufficient to say that the bulk of the property was left to John Nuttall, a cousin, and foreman in the service of a contractor in London.

John Else, the brother-in-law of a person living with the testator, at the time of his death, in the capacity of housekeeper, was an assistant overseer and bailiff of the County Court at Matlock; he had been employed by the testator in collecting accounts.

The testator died in March 1856, having been for some time before his death in an extremely feeble state of health. The duplicate wills were beyond question placed in a cupboard in his bedroom; and there was also no doubt that two or three days before his death he was very anxious to get to that cupboard, but unable from feebleness to do so or explain his wishes.

Immediately after his death, one copy of a

will was produced, which was authentic; a second copy, also authentic, was found before the funeral, with an interlineation which was subsequently disputed, although not at the time, by John Nuttall, who had principally benefited by the will, and whose estate was lessened by the terms of the interlineation, and probably, but for subsequent events, it would have passed without challenge.

This was the state of affairs on April 21 following the death, when John Nuttall himself died, leaving his property to his children. A fortnight after his death, Else produced a codicil, which he declared that he had found amongst the papers of the original testator; it was dated October 27, 1855, and purported to be entirely in the testator's handwriting. Eight months after the production of this codicil, Else produced another, which he said he found in a little penny account-book, pinned on to one of the leaves; it was dated January 6, 1856. There is no doubt that there was much improbability in the story of both these discoveries, and moreover there were misspellings in both the documents to which no similar ones were to be found in the writing of the testator, and it may generally be stated that Else and his belongings derived benefit from both of them. Nevertheless there was not anything that was not susceptible of some explanation,

which, however, it would only encumber the main features of the tale to relate.

Another nine months elapsed, and then Else, according to his own account, made a most astounding discovery, brought about by means almost miraculous.

He had gone to reside in the testator's former house, at the back of which there was a yard, and on one side of it there was a flight of steps, leading up to a hay-loft, at the farther end of which was a small room used as a lumber or tool house.

Into this loft on October 9, 1857, it moved the spirit of Else, accompanied by a boy named Campion, to ascend, and it struck him that the window of the lumber room wanted cleaning, and so he told the boy to clean it, which he accordingly proceeded to do, but not being able to reach high enough, Else laid hold of the window-sill to pull himself up, when the boarding gave way, and disclosed a small hole in the wall, in which was an earthenware jar. In the jar was a small bag containing twenty sovereigns, and also another codicil, substantially giving the bulk of the property to Else, like the two former ones, and containing instances of misspelling dissimilar to any occurring in the genuine writing of the testator. It will be observed that the different codicils were found by Else in the order of their respective dates. One

circumstance I think ought to be stated. Newbold, the solicitor, who had died before the last trial took place, had expressed a belief which, although not in positive terms, was not altogether antagonistic to the authenticity of the codicils.

There were a number of minute facts—arguments about handwriting, the relations existing between the different parties, and their opposing interests; but I think I have told enough to make the general reader understand the proceedings which occurred after the production by Else of these remarkable documents.

The parties conflicting were the representatives of the original residuary legatee on the one side, and John Else practically, though associated with another person named Cresswell, on the other.

The duplicate wills being admitted, the question was raised as to the validity of the three codicils, and a suit was instituted in Chancery for this purpose, the result of which was that an issue was directed by the Master of the Rolls to try this question. It came on at the summer assizes for Derby in 1859, before Lord Chief Justice Erle and a special jury, who found in favour of the codicils. The Master of the Rolls was not satisfied, and directed another trial, which came on before Chief Baron Pollock, at

the spring assizes at Derby in 1860, and then the jury reversed the former verdict, finding that the codicils were forgeries. An application was then made on the opposite side to the Master of the Rolls, but he was satisfied and refused to interfere. Next came an appeal to the Lords Justices, who were divided in opinion; and then there was a reference from them to the House of Lords, who decided for a new trial, and directed that it should take place in London, before the Lord Chief Justice of England and a special jury, and upon this occasion the counsel engaged were, for Else, the real plaintiff, Mr. Karslake, Q.C., Mr. Field, Q.C., and Mr. Hannen, the present judge of the Probate Court; for the defendants, the representatives of the will, Mr. Serjeant Hayes, myself, and Mr. Wills.

It will be obvious, from the slight sketch that I have given of the circumstances, that the case of the plaintiff depended upon the truth of Else himself and the four witnesses who severally were pledged to having witnessed the successive codicils, and here was introduced another element. It was alleged that Buxton and Gregory, the witnesses to the first codicil, had been tampered with. Adams was dead, but his deposition upon the last trial was read, and it supported the codicils to which his name was attached. Nothing appeared against

his character. He was a surgeon, and really could not be mistaken, and moreover had no apparent interest in the matter. Knowles's son took a legacy under the second codicil. Knowles himself was examined upon the trial at the Guildhall, and swore to his own and Adams's signatures. I cross-examined him, but failed to elicit anything that in my own judgment seriously affected his credit; and I confess that the effect upon my mind was that, standing by themselves, notwithstanding the prevarication of Buxton and Gregory, these four witnesses did present a formidable case in favour of the codicils.

As Mr. Karslake put it with point and judgment, 'Direct and positive evidence was to be met by apparent improbabilities, and by speculations as to handwriting, the codicils being all of them alleged to be the testator's own.'

Sir Alexander Cockburn prided himself greatly upon his discernment in matters of handwriting, not altogether without justice; but it was with him a favourite subject, and he seized upon it with avidity, and dissected it at length. He found and pointed out dissimilarities between the admitted and contested signatures, and also dissimilarities in style. The misspellings also were pointed out by him, and strangely differed from those proved to exist in documents written by

the testator; but although these were very remarkable, still this observation might be made: how was it that Else, who was perfectly acquainted with the testator's handwriting, and with the ordinary blunders contained in it, and having plenty of time to prepare the documents, fell into such transparent errors? Handwriting is a dangerous element upon which to rest a case; the evidence of what are called experts is viewed with no great confidence. Juries distrust it, and in this particular action I did not quite agree with the opinion expressed by the Lord Chief Justice as to the dissimilarity.

Mr. Serjeant Hayes took, in my opinion, the right course in dwelling upon the improbabilities of the story, which he did with great ingenuity and humour. He was not a powerful speaker, and not equal to Mr. Karslake, who upon this occasion fully supported his reputation, and was most justly complimented by Sir Alexander Cockburn for the mode in which he had conducted the case; but Serjeant Hayes possessed a very acute mind, and was very droll in some parts of his speech. I cannot forbear quoting that portion of it which referred to the discovery of the last codicil, and was received with roars of laughter. I copy it from a pamphlet, published by a Mr. Keene of Derby, and from which I have refreshed my memory upon other matters in the case:—

'Then as to the third codicil found in the jar in the hole in the wall. "What's that," said Else, "what's that in the jar?" Why a codicil to be sure! What else could it be but a codicil, in a jar in a hole in the wall? Of course it was a codicil. Why, but for this remarkable discovery it might not have been found at all, at all events until the house was pulled down a century hence. What a place for a man of business to put his last will in!'

Serjeant Hayes then proceeded to state, what was subsequently proved, that during the testator's lifetime an iron vice weighing 60 lbs. had been screwed over the window board in which the jar containing the codicil was placed, and which must have been unscrewed by the testator whilst suffering from a most serious abscess in the back. The Serjeant then proceeded thus: 'Why, imagination can scarcely go beyond this story. One blessing of the Chancery proceedings has been that they have stopped the finding of codicils. But for them a fourth must have been found—it must have come. The second and third had each been found after nine months, the usual period of gestation; but perhaps, as there was so little of the property left to be still disposed of, this might have been only a seven months' codicil. It was certainly difficult to conceive where it could have been

found; one could hardly imagine a more obscure place for secreting it. Perhaps, however, in Job Knowles's quarry, while his men were blasting the rock with gunpowder, of course in some fissure Else may have seen an antediluvian toad sitting on something, and said "What is that?" Why, what could it be but a codicil? However, thanks be to heaven! no more codicils had been found.'[1]

The Lord Chief Justice summed up the case with admirable perspicacity, but, as I expected he would, dealt very strenuously upon the evidence afforded by the handwriting, not, however, neglecting to make forcible comments upon other parts of the case; and the jury without much hesitation found a verdict for the defendants, which as it turned out put the existing codicils at rest for ever, and no further discoveries astonished the world, although there are some still living who shake their heads and express disbelief in the conclusion arrived at.

I have in a former chapter called attention to the fact that crime, like other incidents in the history of nations, repeats itself, and this remark may apply to all descriptions of it; I have myself recently been engaged in a case that brought forcibly to my mind the great Derby will case, and which illus-

[1] Knowles was in occupation of a quarry.

trates one at all events of the remarks I have made as to the distrust juries have in the evidence of handwriting. Here the plaintiff set up three documents; they were promissory notes, and there were three witnesses, who could not be mistaken, and who swore to the signature being that of a person since dead, and that they had seen him sign them. In this respect the evidence was probably of more weight than that of the attesting witnesses to Nuttall's alleged codicils. The documents in question had been, as alleged, executed by this gentleman eight years before, and he being dead, there was no direct contradiction to the story of the plaintiff. They had been kept during all this time in a receptacle as eccentric in its character as the boarding of the window-sill, namely, in a cash-box at the shop of a kind of general dealer, who was one of the witnesses to the signature, but had no apparent interest in the case. Strangely enough, the stamps of the bills in two instances had the dates erased, which was accounted for by their contact with old coins, which might have rubbed against them; but what was still more odd, it was the date only that had disappeared, the outer rim, which was the highest part of the stamp, being uneffaced. At the time that the deceased was supposed to have signed the notes, which amounted to 1,250*l.*, and for which he only received 500*l.*, he was in abundant funds.

An action was brought by the drawees against the executors, and was tried before Mr. Baron Huddleston. I was counsel for the defence, and confess that in my judgment the evidence as to the handwriting was conclusive against the claim. I never witnessed discrepancies so apparent, and Mr. Chabot, the experienced judge of handwriting, pointed out many with great clearness, in addition to those discoverable by the most ordinary observer. The learned Baron also was obviously of a similar opinion, but the jury nevertheless were discharged without giving a verdict, there being eleven of them for the plaintiff. Upon a second trial, before the Lord Chief Justice, very little prominence was given to the evidence of writing, and Chabot was not called, but the utter improbability of the story was mainly relied upon, the result being a verdict, after little consideration by the jury, for the defendants.

Whether I am right in supposing that the different tactics obtained this result I cannot say, but there is no doubt that if a branch of evidence distasteful to a jury is made too prominent, it frequently leads to their attention being distracted from facts that in themselves are sufficient to support the conclusion contended for.

CHAPTER XII.

AN APOLOGY TO MY READERS.

I HAVE already mentioned the fact that when first I began a record of some of the events of my life, I did so for amusement, and with no idea of publishing; and since I have commenced the task with a view of submitting the result to the public, I have frequently wavered, and almost determined to abandon it. I have feared that my personal anecdotes might be deemed too trivial, and my professional ones too dull. I have also felt that the contents of many of my chapters greatly exceed the limits that the title of the work would seem to justify; also that I have presented opinions that can scarcely be deemed of interest to the general public, and in one or two instances I may be accused of introducing matters that amount almost to treatises. Difficulties also have presented themselves, which, if my pages had remained in my own custody, would not have been of importance, but for which when I offer them to the public I am bound to apologise. I rarely kept a diary, and only interjectionally, at long intervals and for

short periods, and then only of private matters; and as I believe my mind is naturally of an irregular type, the circumstances that come into it during the progress of my work refuse to maintain any order, and defy every endeavour to preserve the dates. This may not be accepted as an excuse for events of one era tumbling against those of an entirely different period, and if I were one of the industrious classes I might sit down and rearrange what I have written; but if I did contrive to write a book orderly, and in accordance with rule, my identity would be lost, and so if my details are confusing I must throw myself upon the mercy of my readers, and ask them to pity my infirmities. In the pursuit of my task I have also found myself limited by the fact that the details of many of the cases I have been engaged in might give pain to some persons who are living, a result which I have felt bound to avoid.

The above lines are a proof of how incurable is my disposition. They ought to have been at the commencement, and here they are thrust into the middle of the book; but then a lengthy preface terrifies most readers, and I think it prudent to avoid an element that might deter people at the outset.

One entry I have found under the date of January 10, 1838: 'Called on Miss Whitcombe,

afterwards with her upon the Roneys. Dined at Sir Charles Forbes's. Evening party at Levien's. Met Boz—looks quite a boy. His sister was there; she sang beautifully, is pretty, and I should think clever. Also met Mrs. Dodd, a very beautiful woman. Hard frost.'

Miss Whitcombe was the sister of Lady Roney, the wife of Sir Patrick Cusack Roney, one of my earliest friends. Both these ladies were singularly beautiful. Lady Roney died early; Miss Whitcombe married a distinguished Indian officer, causing me a period of extreme depression.

Sir Charles Forbes was a very wealthy merchant and director of the East India Company. He lived in a large house in Fitzroy Square, and my father was intimate with him. He was a man noted for his benevolence, and amongst many acts of kindness he gave a younger brother of mine an assistant-surgeoncy in the Company's service. My brother was a very good-looking young fellow, and unfortunately, as it turned out, very susceptible. A lady and her daughter went out in the same ship, the latter being engaged to be married to an officer of rank. I fancy she looked with no unfavourable eye upon the young assistant-surgeon. The mother was prudent and said nothing whilst on board, but immediately upon landing gave a hint to the colonel of his regiment

which resulted in my brother being sent to Scinde, where he caught a fever which ultimately laid the seeds of a premature death.

Mrs. Dodd was one of the handsomest women in London. She lived with her husband in Montagu Square, where they extended great hospitality.

Oh these diaries, which I have come upon by mere accident! Here is another entry, earlier it must be than the last, but I have only the leaf, and the date is torn off. I record the return of a ring from a pretty Irish girl, and my abandonment to utter despair. She was the daughter of a very eminent solicitor in Dublin, and afterwards married an officer, who at the time was aide-de-camp to the Commander-in-Chief. She died of consumption within six months of her marriage. It was upon the occasion of a visit to her family that I saw Dublin for the first and only time. At this period I had no means and but shadowy prospects, and her father acted wisely in putting an end to an unpromising engagement. Her brother is an officer of distinction, whom I have often met since, and with whom I have always been upon terms of intimacy. And now, reader mine, I shall exhume no more domestic histories, and have only recorded these to show that my life has not always been devoted to the engrossing studies of the law.

Another entry, however, I will refer to, as it mentions the name of a gentleman who at the time filled some space in public history; I allude to the Rev. Dr. Croly. He was a popular preacher at, I think, St. Saviour's Church, Southwark, and was the author of different works, amongst others a novel called 'Salathiel.'

My father and myself were dining at the house of a Mr. Stutfield, a Middlesex magistrate. He lived in very good style at Clapton. The doctor was engaged at that time in the persecution of Alderman Gibbs, whose conscience enabled him to bear it with philosophy. It must be remarked that conscience does vary very considerably in different people. The note I find is in these words: 'Met Dr. Croly; a brute'—and such is my remembrance of him—'noisy, self-asserting, and maintaining the whole talk at the table, the greater part of it consisting of boasts of his own doings. A little meek-faced lady sat next to me, viewing him with a look of ineffable disgust, and whispering now and again to me at the end of one of his romances, "Not a word of truth in it." I found out afterwards that this was his wife.'

I have not mentioned that through the nomination of the Duke of Wellington I had become a magistrate of the Tower Liberty; and I suppose I still hold that dignified position. My father

was chairman, but there never was anything to do. I heard that there once was a case tried there, and a difficulty arose from there being no Testament upon the premises, but now the jurisdiction is engulfed in the Middlesex Sessions. When Alderman Gibbs became Lord Mayor I dined, on November 9, at the Guildhall, but it was a stupid dinner, as there is no doubt he was in very bad odour, and few of the Ministers attended.

I have lately, and since I wrote the first of these volumes, read recollections and reflections by my old friend Planché. He naturally refers to many of those whom I have met and given my impressions of, and also, as he was an acute observer, if my opinions are correct, there must be a sameness between our accounts. I hope that this will not destroy any interest that may otherwise have been created. I am inclined to think that my description of Thackeray's personal appearance must have been founded upon seeing him at a later date than I imagined to be the case, as Planché describes him as tall and slight at what would be the same period. He confirms my view of his character. I was much struck by his sketch of Billy Dunn, so entirely confirmatory of my remembrance. I was, however, surprised at his assigning the palm of beauty to Mrs. Robinson amongst all with whom he had associated, as he

has often told me that there never had been a being so lovely as Madame Vestris, and judging by the fascination that she exercised over so many this account must be near reality; true it is that the brilliancy of her mind and variety of her accomplishments gave zest to her charms. Amongst those who worshipped at her shrine was one whom I just remember, an elegant gentleman, and courted guest in all societies. Strangely, for the period in which he lived, he was a 'Radical,' but though his opinions were considered 'uncommonly low,' no one could deny the refinement with which they were expressed. He and Wakley were returned after the Reform Bill as members for the borough of Finsbury.

They were opposed by that hard-headed old Scotchman, Mr. Serjeant Spankie, whom I have already mentioned. Tom Duncombe was not famous for paying his debts, and Wakley was accused of having burnt his house to cheat an Insurance Company. A *bon-mot* of the Serjeant's is recorded by Mr. Greville in his memoirs; it was old then, and so I am only following an illustrious example in repeating it. Spankie, canvassing an elector, was told that he had promised to vote for his two opponents. 'Well,' said he, 'I only hope you may have one for a debtor, and the other for a tenant.' Spankie, after he had passed the

meridian of life, married a really very charming young lady. This event was celebrated by the poet laureate of the Home Circuit in the following distich :—

When Miss Smith was twenty
She had lovers in plenty ;
When Miss Smith got older
Her lovers got colder ;
Then came Serjeant Spankie,
And Miss Smith said Thankie.[1]

My recollection of Tom Duncombe is of a tallish, good-looking man, dressed in a blue coat with brass buttons, and a collar reaching half-way up his neck. This was the fashionable costume of the period ; his head, however, had its full complement of brains, as the following anecdote will testify. There was a certain individual, his name and place of abode are alike immaterial ; he was collector of some portion of his Majesty's revenue ; he was also the collector of autographs bearing a stamp, of which he possessed several specimens presented to him by the honourable member for Finsbury before he was elected for that borough. After that occurrence it was found impossible to induce Mr. Duncombe to treat his handwriting with proper respect, and so the individual in question hit upon a means of

[1] I have not published the real name, but the description given of the young lady's waning attractions was much opposed to the fact.

persuasion which was very unlucky for himself as it turned out. The honourable member lived in the neighbourhood of Westminster, and one afternoon when starting upon his Parliamentary duties he was confronted by some half-dozen men encased in boards, with the announcement upon them that the possessor of certain documents bearing the signature 'Thomas Duncombe' was willing to part with them to the highest bidder. This gentleman proceeded calmly to the House of Commons, and, impelled as he said by the interest he took in the application of public moneys, moved for a return of such of the king's taxes as had been collected and not paid over. The motion, being seconded, was carried as a matter of course. This was by no means convenient to the inventor of the boards, and a catastrophe ensued that led to their disappearance, and the patriotic member was never again troubled to take possession of the documents bearing his signature.

Another of the devoted admirers of Madame Vestris was Horace Claggett. He was in some crack regiment, and when I knew him was past middle age, but handsome still. His finances did not accord with disinterested love, and he discarded the drama and went in for matrimony with a Miss Day, who was in some way connected with the firm of Day and Martin, and who had

many thousand charms besides. She yielded to his attractions and accepted his suit. He had a rival for her hand, an officer in a Dragoon regiment, who was rejected; on this becoming known to his comrades, they chalked up next morning on the door of his quarters, 'Try Warren's.'[1]

I never met Madame Vestris in private life, and the last time I saw her was at the Central Court, when she was obliged to prosecute a servant for theft. Her appearance then had greatly changed, and she had an affection of the nerves of the face which created the appearance of distortion. I have heard that she was a woman of great kindness of disposition, and beloved by those associated with her, of both sexes. Planché has made an account of her different managements and successes a labour of love, the perusal of which will fully reward those readers who take an interest in the drama. He was also intimately acquainted, not only with herself, but with the brilliant company that surrounded her and aided in her performances, and in his work many amusing anecdotes will be found.

I knew Frank Matthews and his wife, both clever comedians. He was younger than his namesake, but used to play old men to the sprightly youths of the latter favourite.

[1] Another famous blacking manufacturer.

CHAPTER XIII.

THE MAYOR OF CORK.

THERE are some events that occur which defy every effort of reason and common sense to understand, and it was to a combination of these that I was indebted for the honour conferred upon me of being appointed to act as counsel to the House of Commons.

Early in the year 1869 his Royal Highness the Duke of Edinburgh was upon a tour, and was visiting our colony of Australia, and whilst there was fired at by an Irishman of the name of O'Farrell. A more wanton piece of ruffianism was never known. In the different attempts to assassinate distinguished people there have usually been causes, real or imaginary, actuating excitable minds, founded upon a notion of injury or mistaken sense of patriotism. But this attempt simply represented ruffianism without a redeeming trait, and probably, when it became known, such was the almost universal opinion.

Certainly amongst reasonable beings it would have been assumed that nothing more degraded

could be produced in a civilised state. Those, however, who entertained that opinion turned out to be mistaken. Another Irishman, envious of his countryman's reputation, was determined to surpass it if he could do so with safety to his person, and accordingly Mr. Daniel O'Sullivan, Mayor of Cork, entered into the lists with that view. It was not an easy task, but it must be admitted that he fully succeeded. Of course before he could occupy his official post of mayor he must have taken the oath of allegiance. He also must be supposed to have known that it was part of the duty he had imposed upon himself to enforce peace and good order. In pursuance of his ideas of these duties, he proceeded to abuse his brother magistrates, to declare that the law he had undertaken to administer was unconstitutional, promised publicly to apply for the suspension of his brother magistrates—a proposal which, it is right to mention, was received with loud cheers by his friends in court—got into a rhapsody about the patriots who had tried to blow up Clerkenwell gaol, and ended in an ecstatic glorification of that noble Irishman who had fired at the Duke of Edinburgh in Australia. Of course society was indignant and disgusted, and as the House of Commons was sitting, it was mentioned from several quarters in terms of indignation. There existed no summary means of getting rid of him by the Exe-

cutive, and it was necessary that legislative action should be taken, which was accordingly done, and a bill was brought in by the Attorney-General to disqualify the mayor of Cork from holding any office, in consequence of the use of scandalous and seditious language.

It was determined that evidence should be taken, and upon May 12 the Attorney-General for Ireland informed the House that, acting under its orders, he had taken care that evidence should be forthcoming in support of the preamble of this bill, and he had also, acting under the order of the House, appointed counsel to be heard at the Bar. These were the Solicitor-General for Ireland, Mr. Serjeant Ballantine, and Mr. Edward Barry. He had now to move that counsel be called in. Mr. A. Sullivan,[1] however, before I had the honour of appearing for the first time before this tribunal, got up and announced that the Mayor of Cork intended to resign, and Mr. Maguire read a letter from him to that effect. The O'Donoghue spoke a few words to a similar effect. With this latter gentleman I had the pleasure of some private acquaintance, and although he would not desert a fellow-countryman, had, I am quite sure, no sympathy with him. The affair was terminated by Mr. Gladstone accepting the undertakings of the

[1] Not, I believe, any relation of the mayor.

gentlemen I have mentioned, and, considering the intense indignation felt by this country at the outrage committed upon an unoffending member of the Royal family, and the scandalous language of a magistrate, it reflects great credit upon the House of Commons that they should have exhibited such moderation of language and dignity of demeanour.

When I was informed that I should have the honour of appearing for the House, I was conducting an election petition at Stafford, and, travelling all night, was somewhat nervous as to the figure I should make. The evidence had been hurriedly collected, and scarcely so strict in form as would have been required, and perhaps it was fortunate that the collapse took place.

It was, I think, upon the morning of my arrival in town I came upon two individuals both of whom I had known well. They were a curiously consorted pair. I had wandered into St. James's Park, and noticed an invalid chair with a gentleman in it, and, walking by its side, a figure which I thought that I recognised. I came up, and, looking round, recognised my old friend Paddy Green, and in the chair, aged from what he was when last I saw him, but as pleasant-looking as ever, the Hon. James Stuart Wortley, once leader of the Northern Circuit, afterwards Recorder of the City of London, and subsequently Her Majesty's Solicitor-General.

He had given way under the strain of the last office, and become partially paralysed. I understood that these two frequently met in this same place, and exchanged gossip about their very different lives.

Stuart Wortley was as good a criminal judge as ever sat upon the Bench. I never saw him out of temper. He was a sound lawyer, and managed the court admirably. It was a misfortune both for it and himself when he changed his position for that of officer of the Crown. He was not rapid enough, nor did he possess sufficient energy for the work of Nisi Prius. I was in one criminal case against him in the Queen's Bench. He exhibited a good deal of nervousness in the conduct of it, and I succeeded quite properly in getting a verdict. He resided in Carlton Terrace, where I have occasionally dined with him, and at that time his wife welcomed all his friends with the most genial kindness, and in the days of his sorrow and sickness was the source to him of support, comfort, and hope, while exhibiting a womanly example of patience and self-denial. Paddy was by nature a gentleman, and seeing him by the side of a man of Wortley's position, and his kindly deference and really entertaining conversation, added to the respect I felt for him. These two were, although in such different frames, valued pictures in my life, and it

was with a feeling of deep interest, on this the last day, that I rested my eyes upon either of them, the one having quitted the ermine, and the other the motley; that they should be passing on their way together, joined only by the bond of a common kindly nature.

Not very long after this, I was consulted in a case that promised at one time to become of interest and importance. Horace Pitt, a colonel in the Blues, and at one time the handsomest man in London, had married a lady of a station not equal to his own, but possessing great beauty. At the time I speak of, she was separated from him, and residing with a niece, the daughter of a Mrs. Richardson. This young lady had formed an acquaintance with a Mr. William Howard, son of the Hon. and Rev. Francis Howard, brother of the Earl of Wicklow, and ultimately she married him. He, however, from very early life, entered into every description of profligacy, was rarely sober, and became nearly imbecile. The Earl of Wicklow having died without issue, this William Howard inherited the title, but did not live long enough to enjoy it.

I met his widow at Boulogne, where she was staying with her aunt, who had then become Lady Rivers, her husband having succeeded to that title. Mrs. Howard was accompanied by a little boy of

pleasing appearance, whom she represented as being the son of her late husband, and consequently the Earl of Wicklow. I think I was staying at the same hotel with them; at all events, I became acquainted with them, and learned that their claim was disputed, and I was ultimately retained to support it.

I found that the allegation upon the other side was that the child was not her own, but had been procured from some other source, and there were so many circumstances that struck me as suspicious that I insisted upon the lady undergoing a medical examination by some physician of eminence. This she refused to do, and as I was acting for her as a friend, I declined to go on any further in the case. She afterwards retained eminent counsel, who conducted her cause in the House of Lords, and placed it in as favourable a light as it was capable of.

An adjournment, however, having taken place, a discovery was made that did not at all surprise me. A nurse and other persons belonging to the Liverpool Workhouse identified Mrs. Howard as having come there with another lady and procured a recently born child from its mother, who was a pauper in the workhouse. Mrs. Howard would not face this evidence, and refused to be examined. Of course there could be but one result—the dismissal of her claim. There were others who, I

believe, put her up to making it. I have never heard what became of her or of the child, which had been kindly and carefully brought up. Shortly after this event Lady Rivers died. She had been a great sufferer for many years, and Lord Rivers married again a lady of high position. He was an old acquaintance of mine, and I used to meet him frequently during the first trial of the Tichborne case. He was a very enthusiastic supporter of the Claimant, but whether upon any reliable grounds I am not aware. I used to meet him two or three years ago at Maidenhead, and have had frequent conversations with him. He spoke very unfavourably of the Claimant, but nevertheless his faith in his identity was not in the slightest degree shaken.

I am sorry to say that he has recently died, and I believe almost his last act was to initiate an endeavour to reverse the judgment of the Court of Queen's Bench upon the case.

CHAPTER XIV.

VIVISECTION.

In an early portion of these pages I ventured some observations upon the subject of vivisection. I described it according to the feelings I entertained, and upon the foundation of accounts that I had read of the nature of the experiments practised upon different animals. I was led into referring to the subject not only because it was one upon which I had always felt great horror, but I thought it not inappropriate to the mode in which corpses were obtained for the dissection table. No one ever estimated more highly than I do the eminent services of medical men towards their community, their high character, or their noble sacrifices and self-denial, but I believe that in the pursuit of science there are amongst some a recklessness and disregard of consequences which may lead, as it did in the matter of the resurrectionists, to grave evils. I find that one of the most eminent surgeons that have ever adorned the profession, Sir William Fergusson, in the evidence he gave before the commission appointed to inquire into the practice of vivisection,

in July 1875, expressed a great dislike to and disapprobation of many of the experiments resorted to.

Although my feelings—it may be called sentiment—extend themselves to all animals that are subjected to dissection whilst living, my observations were more particularly directed to those that had become domesticated. In this view I am upheld by Mr. Richard Holt Hutton, a member of the commission, and, I believe, by no means one of the least eminent. He makes a great distinction between domestic and other animals. The former, he says, possess a higher sensibility than others; they have been brought under the influence of civilisation, and these members of our household, he thinks, ought to be exempted from all liability to such experimentation; and he puts forward another reason that must surely reach the heart of anyone possessed of common feeling. I will quote his own words upon the subject:—'A third reason for this exception seems to suggest itself from the very nature of our relations with these creatures, which we have trained up in the habit of obedience to man and confidence in him, so that there is something in the nature of treachery, as well as insensibility to their suffering, in allowing them to be the subject of severe pain, *even in the interests of science.*'

Since I wrote my earlier observations upon this subject, three treatises have been published in

the 'Nineteenth Century' Review, bearing the names of great men, in which it is discussed, Sir James Paget, Professor Owen, and Doctor Samuel Wilks, and their far-famed reputation gives to their opinions a commanding weight. Of course in a question of experience or science I cannot presume to place my opinion upon a par with theirs, although I cannot admit that scientific reasoning can overcome conscientious feeling. Still, the utterances of such men upon any point are bound to be carefully weighed. I have a slight acquaintance with Sir James Paget, and from that, and the high estimation in which he is everywhere held, the utmost respect is due to his views, and in some of them I thoroughly agree; there are many cruelties inflicted by mankind upon animals without the excuse created by the object of vivisection. I hope that he is correct in saying that the pain suffered during its process is not so severe as those who read its description imagine; and I fully concur in his statement that sensibility increases by culture and refinement, and this view also accords with Mr. Hutton's; but I am obliged, if not to dispute, at all events to quote an authority against the accuracy of two of his illustrations—those in which he attributes to Hunter the valuable discoveries in relation to tying up the arteries, to experiments upon living animals, and to the same source to Dr. Simp-

son of Edinburgh the discovery of the use of chloroform in excluding pain during operations upon human beings. Sir William Fergusson, whom I have already quoted, does not concur with Sir James Paget as to either of these statements; and I will quote his words, which I take from the report of the commission held in 1875:—'Some of the most striking experiments that have been performed upon the lower animals with reference to surgery have really been performed already upon the human subject, and proved on the human subject, and therefore there is scarcely any necessity for the repetition of such operations.' He then illustrates his views by referring to John Hunter, whom he describes as one of the greatest physiologists and greatest surgeons that ever lived, and who devised an operation upon the arteries which was one of the most brilliant in surgery, and did so for the first time upon the human patient. By this operation Sir William was of opinion that everything necessary was known, and yet he says it is notorious that since that time *thousands upon thousands of animals* have been tortured unnecessarily to prove what was already perfectly well known.

Another remarkable statement is made by Sir William Fergusson, and surely a very suggestive one. 'I am not aware,' he says, 'of any great

surgeons having been great experimenters upon animals, and I am not aware of any great operator upon the human subject who ever prided himself upon being a good operator upon the lower animals.' He also speaks of the experiments in chloroform, of which he says: 'All the experiments upon the lower animals have been performed since the experiments have been conclusively applied to the human subject.'

It will be observed that Sir William quotes, as illustrating his own view, the very examples relied upon by Sir James Paget. I had the pleasure of knowing Sir William in private life, and have heard him frequently reprobate the unnecessary practice of vivisection; and in reading the article of Sir James Paget himself I cannot help thinking it is written in a somewhat apologetic strain, and not quite as if his feelings went with the opinions he has enunciated.

It is very difficult indeed to obtain, upon such a subject as vivisection, a fair discussion; it is naturally mainly confined within scientific limits and assertions: the great body of the public, who are shocked at its practice, become lost in terms of art; whilst the allegations of great and useful discoveries dependent upon it are made, conscientiously, no doubt, but without the kind of evidence which would alone be satisfactory in the case of

other discoveries; and I have thought it therefore desirable to place before those who take an interest in the subject the antagonistic opinions of such men as Fergusson and Paget. I admit that mine, in a scientific point of view, can be of little weight.

Throughout the proceedings upon the Commission the use of anæsthetics is enforced, and, so far as suffering during an operation is concerned, there is no doubt that external evidence of pain is destroyed; but let the imagination follow the victim through the hours, days, months, during which it is kept alive for the purpose of fresh experiments.

It was stated by most of the witnesses that the pupils expressed indignation if any unnecessary cruelty was exhibited by the performers; and I was very glad to read this, as I imagined such scenes were likely to engender indifference to human suffering.

There is another aspect of the practice that occurs to me, and I believe that there are eminent men of the medical profession who will not altogether ignore it—it is calculated to lead to speculative operations upon our fellow-creatures. It may probably also arise from my practice in courts where evidence is scrutinised, and the conclusions arrived at with caution, that I do not assume the correctness of those which are not subject to

adverse tests; and I have seen so many scientific witnesses enter a witness-box with undoubting minds upon a particular theory, who have left it, if not themselves convinced of their error, at all events having convinced everyone else of it, that I cannot blindly follow assertions that are repugnant to my natural feelings.

I hope that the above observations may not be deemed presumptuous; but as the very learned contributors to the subject in the 'Nineteenth Century' Review threaten a crusade with the view of enlarging the sphere of the vivisectionist operations, and removing the restrictions which were created in consequence of the report of the Commission of 1875, I have ventured to call attention to certain differences that exist amongst the most eminent of those who advocate the practice; neither can I admit that the subject can be determined purely upon scientific grounds.

I am also entitled to consider certain reports that have appeared in the public journals quite recently—an investigation that has taken place in a public court, and statements that have been made, and that remain uncontradicted.

I am now quoting from the 'Times' of November 18 in the last year. It appeared that two eminent professors, after diligent search into the brains of living animals, were unable to agree

upon a result: upon which another professor, equally eminent, having obtained a supply of cats and monkeys, endeavoured to settle the question by similar means. I did not follow the history of the cats, and cannot tell for how long they served the purpose of this inquiry. I learnt a little more about the monkeys. They, it appeared, after the first inquiry into their brains with the scalpel, were kept for seven weeks, during which time several essays were made upon the journey of discovery. I suppose they were selected as bearing some resemblance to the human being.

Poor things! they had been probably kidnapped; but still I can imagine them enjoying a period of pleasure, petted by the sailors on board the vessel that brought them over, and then gradually disposed of by the philosopher's knife.

If the following paragraph, which I copy from the same paper that I have already quoted, be correct, it does not say much for the humanising character of the lectures and illustrations :—

'A large crowd of medical students assembled outside the court, but in consequence of their howling and cheering were kept out of it.',

CHAPTER XV.

THE TICHBORNE BARONETCY.

Amongst marvellous stories developed in legal proceedings, none in my time have exceeded the adventures of the claimant to the Tichborne baronetcy and estates. The largeness of the property and the position of the family naturally attracted attention to a claim which sought to dispossess owners of estates the rights to which had never before been doubted, still less contested. The Claimant was denounced as an impostor by many merely because his story was antagonistic to experience, whilst others were prepared to support him from the very marvels which surrounded it. The recognition by his mother was thought by many to be an irresistible proof of his identity, and this obtained additional strength from opinions emanating from people of position and character, who had known Sir Roger well, and to whom no unfair motives could in justice be attributed. At the commencement of the proceedings, certainly, shrewd lawyers believed in him, and even now

there are many persons who have no sympathy with his career, but who nevertheless are convinced of his identity.

The interest in the case was also enhanced by the enormous amount expended in the conduct of the defence, and the proceedings before Lord Chief Justice Bovill might have been more properly described as 'morning performances' than sober legal inquiries.

The rush for seats was much noticed and commented upon in different journals, and his lordship's health was supposed to have been impaired, not so much by the judicial strain as by the arduous and unaccustomed duties of master of the ceremonies; whilst in relation to the criminal trial the Lord Chief Justice of England had unfortunately expressed opinions that led the supporters of the Claimant to assert that he was not likely to obtain a fair trial at the hands of that learned judge.

In the course of the second trial an unfortunate and reprehensible element was introduced in the shape of a writer who, representing the Claimant as counsel, made this a centre point from which to shower invective upon the heads of all who were opposed to his claims.

It is not my intention in the following pages to express any opinion upon the truth or falsehood of the present romance. I was at the com-

mencement retained as the Claimant's counsel, and I do not consider that it would be right for me to disclose more of the circumstances than are known or may be known through the ordinary channels of public information.

A brief sketch of the previous history of Sir Roger Tichborne is necessary to enable my readers to follow the remarks that I am about to offer. He was born in the year 1829, and partially educated at Stonyhurst College, a Catholic establishment of very high character, his family, as is well known, being of that faith. He does not appear to have remained at the college long, and it may be doubted whether he had made great progress in his studies—a circumstance that ought not to be lost sight of. Upon leaving it he was sent to Paris, and there, if the evidence of the witnesses given at the trial be true, he must have met certain persons who professed to describe him as he appeared in that city at the period in question. Upon leaving Paris he returned to England, and in the year 1849 obtained a commission in the Sixth Dragoon Guards (the Carabineers), and remained in the regiment until some time in the year 1853. His character whilst there does not throw much light upon the identity of the Claimant. He certainly exhibited no signs of a vicious disposition, and was retiring rather than the reverse. On the other

hand, he was restless and unsettled. His career, after he left the army, was not indicated with much clearness, but he certainly quitted England, and within twelve months after he had left the army he was staying at Rio de Janeiro.

No known object but the spirit of adventure had apparently taken him thither, but at this period it was undoubtedly his intention to return to his native land, as he secured a berth on board a vessel called the *Bella*, bound for Liverpool, and upon which he embarked.

This is common ground, and the theory of his family is that the ship was wrecked, and the passengers and crew, including Sir Roger Tichborne, were drowned.

We must now take up the narrative from the mouth of the Claimant; and he gives an account of the wreck of the *Bella*, but says that, with others of the crew, he escaped in one of the boats, and after knocking about the sea for some days was picked up by a trading vessel and landed in Australia; and one circumstance must strike the reader of this narrative as remarkable, that, if he were Sir Roger Tichborne, he did not pursue the design that he clearly had when at Rio, and return to England at once. I cannot think that he could have had any difficulty in obtaining means to do so.

I will hasten over this part of the story—he

appears to have pursued a life of hardship and adventure, probably not unattended with crime, and certainly with poverty, and to have taken to himself a slightly educated woman for a wife, and in the year 1865 to have been living at a village called Wagga Wagga, where he was pursuing the calling of a butcher. It was in this year that the father of Sir Roger Tichborne died, and his mother, who had always entertained a belief that her son was alive, caused advertisements to be inserted in numerous papers, some of which undoubtedly reached the remote district in which the Claimant was living.

Now, the supposition on the part of those who opposed his claim is not only that he was not Sir Roger, but that he could by no probable means up to this time have ever even heard of such a person; and it is certainly very remarkable that these advertisements should have attracted his attention, that he should have declared himself to be the lost heir; and, what is more singular still, that he should have been able, as was undoubtedly the case, to borrow funds to come over to England, from sources possessing apparently not the slightest ground for reposing belief in him. But so it was. On the other hand, his eagerness to leave Wagga Wagga was not followed by corresponding alacrity in reaching England. He wasted time, took a circuitous route, and did not even-

tually reach London until Christmas Day, 1866. Then his proceedings, if he were really Sir Roger, were of a most eccentric description. He undoubtedly went down to Wapping, and made apparently anxious inquiries about the family of a butcher named Orton, whose son had started some years before on a voyage to Melbourne. He showed a knowledge both of the Orton family and the locality that subsequently became an important feature in the different inquiries, and led to very unfavourable conclusions.

He attributed this conduct to a request from a person of that name who had been his associate in Australia.

The solicitor originally retained for him was a gentleman named Holmes, who certainly believed in him, but before he took any steps in the case desired that he should be seen by the mother of Sir Roger, to which the Claimant readily consented, and an interview took place in an hotel in Paris where he was staying. It was alleged that he was ill, and when Lady Tichborne saw him he was in bed. It was said that he practised means to prevent her having an opportunity of judging of his identity; this, however, was denied, and undoubtedly she acknowledged him as her lost son.

I may now say a few words of the impression he made upon me when first I saw him. He was

stout and unwieldy, with marked but not coarse features, although his size would at first create such an impression, but his hands and feet were certainly not what I should have expected to find upon a low-bred person. The expression of his face was not bad, and, I should have said, was of a melancholy cast. His manners were not those of a person who had ever moved in good society.

What was a noticeable point was that a great likeness was discoverable in him to many members of the Tichborne family.

When I was first consulted upon the matter by Mr. Holmes I felt that the disturbance of a family in an estate that they had held unchallenged for so many years was so grave a matter that I ought not to act in it without satisfying myself, as far as it was possible for me to do, that there was reasonable ground for the claim, and, before moving in it, requested an interview with Lady Tichborne, which was accorded without hesitation. I had been informed that she had always clung to the idea that her son was alive, and I had also heard that for some family reason her feelings were somewhat antagonistic to members of her husband's family. She called upon me at my chambers, and I had an interview with her without the presence of any one but ourselves, and certainly with no favourable bias in my own mind. Lady Tichborne was a very

quiet, ladylike personage, dressed plainly in black. She seemed to have endured suffering, and to be more aged than her years would warrant. She certainly did not exhibit any animosity to her kinsfolk, but expressed herself most earnestly upon the subject of the Claimant. She treated the notion of her being mistaken as to his identity as being absurd, spoke of marks upon his person which she had remembered noticing in his infancy—I did not ascertain whether she had actually seen them since —and she ended our interview by the following words, which I remember well: 'How can a mother be mistaken in her son?' However the belief may be accounted for, I am confident that the lady was truthful, and fully alive to the gravity of her declaration.

I accepted a retainer with Mr. Hannen on the part of the plaintiff, and although neither of us was unappreciative of the many improbabilities that attended the claim, I believe that both considered it was one that the Claimant had a right to bring forward, and possessed many circumstances to uphold it.

CHAPTER XVI.

COMMENCEMENT OF PROCEEDINGS IN THE TICHBORNE CASE.

PROCEEDINGS were commenced in the Court of Chancery; affidavits were filed; experienced counsel, practising in those courts, appeared for the respective parties, and the case was begun; and, having briefly sketched the position of the Claimant, I propose to show what weapons the representatives of Sir Roger Tichborne's family possessed to encounter the attack.

In the first place they were entitled, and did, as a matter of fact, file affidavits, and in them might have given—and ought, in my opinion, to have done—any information they possessed bearing upon the facts. Some five or six years afterwards they alleged for the first time *that the real Sir Roger had indelible tattoo marks upon one of his arms, of which they were aware when first he made his claim, but nothing was then said in the affidavits on this subject.*

They had the power of subjecting the Claimant

to cross-examination—peculiarly important in such a case if skilfully exercised—and they availed themselves of it. They believed the Claimant to be an impostor, and if so, they must have known that he was a most daring one, and ready to adopt every means to defeat discovery. Still, much may be done by an advocate who knows how to deal with human nature, and has practised his powers largely and with signal success. Such a man was one of the counsel they had retained—none abler at that time at the Bar—Mr. Hawkins. I believe, from the effect afterwards produced by Sir John Coleridge, that, even with the scanty materials supplied, Mr. Hawkins would have crushed the case at its very outset if it had been false; but instead of using this power the advisers of the family availed themselves of the talents of a Chancery barrister of high character and reputation, but who probably had little previous experience of cross-examination under such unusual circumstances; and they never could have supplied him with sufficient knowledge of the alleged marks, or undoubtedly, in my opinion, he would have asked the question of the witness whether he had any such upon his arm, and the witness could not have done otherwise than answer in the negative. There were, according to their account subsequently, two witnesses (at least) of good position who were ready at that very time to come

forward and say that they had actually themselves tattooed him at the college.

The only reason that I have heard given for this mode of conducting the case was that the Claimant might have created the marks if he had been informed of their existence. This is nonsense; such an attempt must have been discovered, and would have wrecked the case. If he had been asked the question in the way that Hawkins would have put it, and attempted to shuffle, he would have been simply told to hold out his arm, and the non-existence of any such marks would have been destructive to the trial.

Assuming that this fact was really known, and that it had been proved, I have no hesitation in expressing my belief that neither the solicitor nor counsel concerned for the Claimant would have consented to go on with the case. I am confident that it would have more than shaken the belief of his warmest supporters, and, unlike those discrepancies which were abundantly proved at the trial, there would have been something palpable for common minds to grasp; and I believe this monster trial, with the gigantic bill of costs, would have perished at its birth in the Court of Chancery.

In one of those holes situated at Westminster, and in which during my professional career many

legal tournaments have taken place, commenced the great encounter between Tichborne and Lushington, such being the name by which the case was designated. Sir William Bovill, the Lord Chief Justice of the Common Pleas, presided. I led for the plaintiff, and with me were associated Mr. Hardinge Giffard, Mr. Jeune, Mr. W. B. Rose, and Mr. Pollard. For the defendants, the Solicitor-General (Sir John Coleridge), Sir George Honyman, Q.C., Mr. Hawkins, Q.C., Mr. Chapman Barber, and Mr. Charles Bowen. Mr. H. Matthews, M.P., and Mr. Purcell were counsel for the Trustees of the Tichborne estate.

The Court did not present so gay an aspect as the Old Bailey upon one of the gala days of that establishment; the bright robes of the aldermen were sadly missed, and, whatever may have been the wishes of some of the visitors, no chance existed of the principal performer ending his days in company with the Ordinary and executioner; but brilliant representatives of rank and fashion crowded around the throne of justice which Sir William filled with no dissatisfied air. He did not then anticipate the labours that would be cast upon his shoulders. The first act opened with a terrific combat between him and certain jurymen, and legal weapons of unusual severity were used. A colonel in the Queen's Body Guard appealed to

be permitted to attend upon Her Majesty's sacred person, but his lordship, fully capable of representing the feelings of this august personage, assured him that she greatly preferred the administration of the law to any protection that he could afford to herself. At last, however, all difficulties were conquered, although the sacred twelve were not reached, and the trial commenced with only eleven victims.

Of the Lord Chief Justice one would not wish to say an unkind word. No one could doubt his impartiality, and his thorough good nature rendered him very popular. He had been a successful advocate, and had a fair knowledge of law, but wanted dignity, and scarcely possessed grasp enough to deal with such a case. Occasionally he accepted advice from a bevy of ladies who clustered around him, and who took a great interest in the proceedings. This certainly was not upon law, but in French and geography, in which it was early shown that he had not been thoroughly grounded. I fear that I must say that, notwithstanding his intended fairness, the colour of his mind was evidently adverse to the plaintiff. Those who are not lawyers ought to be made aware that the burden of proof lay upon the Claimant, and that unless I, on his behalf, succeeded in making a case of such inherent probability as to require an answer,

the defendants would succeed in the action. A thoroughly strong judge, if he feels that counsel for the plaintiff has not succeeded in doing so, will often convey a view to that effect. And if, after this case had proceeded through part of the Claimant's cross-examination, a suggestion to this effect had been made from the Bench, I think that I should have withdrawn; it was clearly impossible for any jury to say that such a case had been made out as to exclude doubt.

The names of the gentlemen who were my juniors are sufficient to show that the assistance I had was as powerful as any that could be obtained at the Bar.

In launching the evidence, I began with putting in the deposition of Lady Tichborne, who had died before the trial, and I afterwards proceeded with witnesses who had known Sir Roger and undertook to identify him. Of these I called several. I thought before putting the plaintiff in the box it was desirable to give an air of probability to the story he was about to tell. At last the jury desired to have him presented to them, which accordingly I did. Great sensation and rustling of silks and satins accompanied the Claimant as he rolled into the witness-box. I have already described his appearance. Mr. Giffard took upon himself the laborious task of examining

him in chief, and it is impossible to say that the effect produced diminished the unfavourable impression which, in the court at all events, had been produced by his appearance. His evidence lasted until the middle of the fourth day from its commencement, when the Solicitor-General commenced his cross-examination, which continued for several days. This learned counsel seemed to lay in a fresh stock of ammunition every evening, commencing a vigorous discharge on each successive morning.

One prominent and most damaging result was in exhibiting the Claimant's utter ignorance of the French language, and Sir John's perfect familiarity with this and also with the classics enabled him to expose the witness upon these latter subjects in lights both startling and ridiculous. I presume that his object was not only to win the case, but entirely to destroy the Claimant for any future attempt, and certainly no cross-examination was ever heard in a Court of Justice which exhibited more labour and industry, or was more completely successful.

And if the Lord Chief Justice had then interfered and, without expressing any opinion of the actual merits of the case, had asked the counsel for the plaintiff whether they could hope for a verdict, whatever might be the justice of the plaintiff's

claim, I think, as I have hinted already, that all of us would have admitted that we could not.

And I feel quite sure that the jury were themselves prepared to endorse such a suggestion. However, the case went on, and the Solicitor-General addressed the jury at great length and with marked ability, and proceeded to call witnesses, during which a defection occurred in our camp, and Mr. Rose, one of the firm of solicitors instructing us, embraced an adverse view. The subject is a painful one, which I do not wish to dwell upon; it caused the counsel much embarrassment and difficulty, and the course pursued by him was extremely inconvenient in the interest of our client.

After the conclusion of his speech, the Solicitor-General proceeded to call witnesses, many of whom, as was the case with those called on the part of the Claimant, were open to no suspicion of falsehood or dishonesty, amongst them Lord Bellew, and the people from Paris; and I believe that it was at this period of the trial that the tattoo evidence was for the first time started in the case. After a time I felt it to be impossible to obtain an affirmative conclusion, and that I was not justified in keeping up the case any longer, and accordingly determined to accept a non-suit upon the part of my client. Some intimation must have

been given that I intended to do so, as a grand *finale* was prepared, and the performance attracted a more than usually fashionable audience. The stage was grouped in somewhat a melodramatic fashion: the centre figure in his usual place in the body of the court, ladies pressing eagerly in every direction, and at the back, only dimly visible amongst the brilliant dresses, two dark figures, apparently greatly out of place, but in reality very important performers in the scene about to be performed. They were tipstaves, prepared to take the unhappy Claimant into custody.

Whatever may have been the opinion of the jury, the course I took prevented them expressing any, and therefore it appears to me that the judge had no precedent whatever for the course he pursued, which was, upon my withdrawal, to order the Claimant into custody. I cannot forbear thinking that this was most unfortunate. Even where a jury have returned a verdict declaratory of their opinion, judges have almost invariably refused to exercise this power, and I remember Lord Penzance saying emphatically that he considered such a course cast an unfair prejudice upon an accused person. It was in this instance a sacrifice to convenience. It was doubtless felt by those who were determined to prosecute the Claimant that if he were treated in the usual fashion of persons charged with crimes,

there would be great delay and difficulty. He would have had to be brought before a magistrate, a *primâ facie* case made out for a committal, and he would have been entitled to call witnesses to rebut it. Fresh scenes, probably not very decorous ones, would have been enacted before an inferior tribunal.

I do not believe that there ever was an instance in which any judge exercised this power without the opinion of the jury having been expressed, and I cannot think that, considering the mass of evidence, some of it certainly honest, on the part of the plaintiff, and the jury having expressed no opinion, a judge was justified in broadly proclaiming his view by a course so arbitrary as the committal. It may be said that otherwise a great criminal might have escaped. Perhaps he would, and might even have become a member of the Legislature. But, in my opinion, it would have been far better that an offender should obtain immunity than that a large body of the public should believe that his punishment has been obtained by unusual means, as undoubtedly was the case by the proceeding in question.

In the foregoing sketch I have not mentioned a personage who took a very remarkable part in upholding the Claimant, and one whose conduct was not reconcilable with any corrupt motives that

could be suggested upon the trial; this was an old servant of the Tichborne family named Bogle. He was a negro, and of considerable age. He was receiving a pension for his services, which his conduct upon the occasion of the claim caused him to lose. He declared his recognition of the Claimant, and it is extremely difficult to know how he could be mistaken, and at least equally difficult to understand why he should have perjured himself. I confess I saw nothing in his manner which led me to that belief. He was cross-examined at length, and was not at all shaken.

His hair was perfectly white, and Mr. Hawkins could not resist the joke that he reminded him of an ebony stick with an ivory knob. The management by this gentleman of the witnesses upon this trial, as well as upon the one I am about to narrate, satisfies me of the correctness of my opinion, that if he had cross-examined the Claimant before the commissioner, the case would probably have collapsed, and that if he had done so, possessing the knowledge of the tattoo marks, it certainly would.

CHAPTER XVII.

INDICTMENT OF CLAIMANT.

ON the 23rd day of April 1873, the trial of the Claimant took place in the Court of Queen's Bench, before Sir Alexander Cockburn and Justices Mellor and Lush, and no one could doubt that it would be conducted with perfect fairness and impartiality, notwithstanding that the Lord Chief Justice had previously made no secret of his views, which were unfavourable to the accused.

Mr. Hawkins, as I have elsewhere incidentally mentioned, conducted the prosecution, in which he had the assistance of Serjeant Parry and other counsel of eminence. The defence was entrusted to a gentleman named Dr. Kenealy. He is now no more, and it would be well for his reputation if he had passed away at an earlier period. He was a man of singular learning, and one of the finest classical scholars of the day, a fluent speaker, and, although eccentric, by no means a contemptible poet. The trial of the Claimant might have given him an opportunity of obtaining dis-

tinction of an honourable kind, and the tribunal as constituted was most favourable to him, as he had dedicated a poem, which might by many have been considered fulsome, to Sir Alexander, who always treated him with marked attention, received him as a guest at his house, had been the means of obtaining for him a silk gown, and undertaken the office of godfather to one of his children; but the notoriety that he attained by a course that he adopted would have injuriously affected the interests of any client.

Dr. Kenealy published a newspaper called the 'Englishman,' in which he attributed, in violent terms, crimes of the deepest dye to men and women of position and character. One man, whom he was under deep obligation to, he actually charged with assassination. There is no doubt that the extravagance of his accusations destroyed their effect against their intended victims, but they as certainly created a feeling of repulsion towards the man whose cause he affected to advocate. And I know that the horror of being in any way associated with him prevented some believers in the Claimant from coming forward on his behalf. Independently of this defect in his character, he exhibited every fault incident to advocacy, he insulted the judges, he disgusted the jury, and finally committed the cardinal blunder of undertaking to prove what was

not really in issue, namely, that his client was in truth Sir Roger Tichborne. This was necessary for the success of his paper, but destruction to the prospects of his client.

It must be borne in mind that the Claimant was now being tried upon a criminal charge, and consequently the position of the parties was entirely changed from what existed at the civil suit, the onus in the former lying upon the plaintiff, as I have already pointed out, to prove his case. In the indictment, however, it was incumbent upon the prosecution to prove that he was not the person he alleged himself to be, and that without reasonable doubt. Dr. Kenealy took up the exactly opposite position, and dealt with the facts as if he were bound to prove the identity. Nothing could be more prejudicial than such a course. Any advocate of ordinary judgment ought to have known that to secure such a result was beyond the bounds, I am almost prepared to say, of possibility. If a barrister of discretion, judgment, and character had enforced upon the attention of the jury those elements that existed in the case, and which were certainly very remarkable, and appealed to that body to consider whether they were not such as defeated the certainty of guilt, I believe that, if a favourable verdict had not been obtained, the jury would have been discharged.

The recognition by the mother, skilfully dealt with, could not have failed to produce a great effect. It is true that her deposition was not receivable in evidence; but what a topic would have been the hardship of its rejection in the hands of a counsel capable of using it! It would probably have had more effect even than its reception. Then there were witnesses, officers, gentlemen and ladies of unimpeached character. There was Bogle, an apparently disinterested witness, and many earnest believers of lower rank, who would again have come forward, and a careful selection of these could not fail to have had much weight; and if I am right in my conclusion that some of the Paris witnesses were unreliable—and upon the former trial their evidence was most contradictory—a great point might have been made.

If they had broken down, as I am sure these would have done if the counsel had been reversed, a most important effect would have been produced upon the case of the prosecution, and let me add that from much experience that I have had of the Lord Chief Justice, although I am sure that he had taken a strong view against the defendant, I am also confident that, if a doubt had dawned upon his mind of the correctness of the conclusion, he would have given to it the fullest effect. Instead, however, of using the means in his power to conciliate

the Court and the jury, Dr. Kenealy lost no opportunity of irritating the feelings of both. A signal instance was exhibited in his cross-examination of a witness of position, whom I believe to have been mistaken, and who ought to have been dealt with upon that assumption, instead of which the Doctor launched against him the charge of deliberate perjury, and cross-examined him upon an incident in his early career calculated to give pain, but which could have no earthly effect upon the character or credit of his testimony. And this he persisted in, notwithstanding the earnest remonstrances of the judges and the indignant protests of the jury.

Finally, he took upon his shoulders the unnecessary burden of proving that the defendant was really Sir Roger Tichborne, leaving it to be implied that, if successful, he would displace the existing possessor of title and property, instead of pointing out that under no imaginable circumstances could there be any such result, and appealing to the well-known principle of criminal law, that no man should be convicted whilst a doubt fairly existed of his innocence. I also have no hesitation in saying that, if the jury did not believe the tattoo evidence, there would have been a blow struck at the superstructure of the prosecution of so serious a character when joined to the other facts favour-

able to his case, and to which I have alluded, that it would fully have justified a jury in acquitting him.

There was a gentleman originally associated with Dr. Kenealy in the defence of the Claimant who suffered greatly from the course that his leader pursued, which he considered to be outrageous and grossly imprudent, and he frequently consulted a mutual friend of ours, Mr. Serjeant O'Brien, upon what he ought to do, and latterly he declined to appear in court, although (acting under his friend's advice, in which I concurred, having been consulted by that gentleman) he took no active steps in the matter. I consider the Claimant's interests suffered most gravely by the circumstances related by Mr. MacMahon, the gentleman in question.

Although, as I intimated before, the Lord Chief Justice entertained a strong opinion against the defendant, which had unfortunately become known, the latter's interests did not in any respect suffer from it. The fault that the Chief Justice exhibited, and which was transparent throughout, was posing too much for effect, and rather encouraging than checking the length to which the proceedings were dragged out, and certainly occupying a very unnecessary amount of time in his own summing-up, which, however, displayed his accustomed grasp and ability. The position of the two other judges

was really nominal, but I must say that I think the trial would have been far shorter and much more consistent with the usual sobriety of criminal trials in this country if it had been presided over by either of them. The eminent head of the court upon this occasion has since passed away.

Mr. Justice Mellor has prudently secured health, and may he long enjoy it. He has carried with him into his retirement the respect and affection of the Bar. Sir Robert Lush, too, after a life so undeviating in the performance of every duty that it might be called monotonous, has at last, covered with honour, terminated his earthly career. I tried to obtain a glimpse of my dear old friend, but he was too unwell to see me when, shortly before his death, I endeavoured to do so.

The leading counsel for the prosecution is now upon the Bench. His conduct of it was lengthy and elaborate, too much so in my opinion, but thoroughly exhaustive. Even if Dr. Kenealy had possessed ordinary discretion and good taste, he would have been no match in advocacy for his competitor, who was assisted by Serjeant Parry, himself one of the actors, and by no means an unworthy one, who has left the stage.

CHAPTER XVIII.

LORD WESTBURY.

THERE are very few men with whom, not being associated upon terms of intimacy, I entertained a greater admiration for than I did for Lord Westbury. I also felt much sympathy with him upon the occasion when he was obliged to abandon the office of Chancellor, which, judicially, certainly no one ever filled with greater credit. I had received from him when Attorney-General many acts of kindness. He had appointed me to argue a case before the judges in the Court of Crown Cases Reserved, and also as counsel in the prosecution of the British Bank directors, and when the Chancellor had given me a patent of precedence.

He was involved in difficulties in consequence of some arrangements made by his son, Mr. Richard Bethell, which certainly showed a want of sufficient supervision upon his part, but I know that his affection and trust in that gentleman were unbounded. The vote of censure in the House of Commons implied carelessness only, and the announcement by himself in the House of Lords of his

resignation of the Lord Chancellorship was listened to with sympathy, and his concluding observations with such amount of applause as would scarcely have been the case if any graver imputation had rested upon his conduct. That concluding scene of his public career was truly painful to his friends, by whom he was much beloved, but on his part was conducted with the utmost dignity. He had married into the family of a gentleman named Abraham, an architect of considerable eminence, and it so happened that this was the means by which I became personally acquainted with him. One of his brothers-in-law was at the same school with me—at Mr. Wigan's, at Blackheath. Another carried on the profession of architect, and during his supervision of the building of the now well-known premises of Mr. Smith, in the Strand, in his capacity of district surveyor, an accident happened by which some lives were lost, and the wisdom of a coroner's jury led to a verdict of manslaughter against Mr. Abraham, by whom I was retained. Sir Richard Bethell, then Solicitor-General, sent for me, and showed great anxiety upon the subject. I assured him that there was not the slightest risk; that it was only one of the mischievous pieces of folly that not unfrequently distinguished a coroner's court, and would be corrected directly it arrived before a competent one. However, he was not

satisfied with my assurance, and made himself fully master of every technicality of the law upon the subject. The case was committed to the Central Criminal Court, where Mr. Abraham had to appear and surrender into the dock, which he did, accompanied to the entrance of it by his brother-in-law. Sir Alexander Cockburn, who was the Attorney-General at that time, had volunteered to appear for him, and was with me and Mr. Bovill, afterwards Chief Justice of the Common Pleas, for the defence. The parade, however, except as exhibiting kindly feeling, was perfectly unnecessary. The grand jury, of course, threw out the bill, and the judge directed the petit jury to acquit upon the inquisition.

Sir Richard was a member of the Middle Temple Bench, and it was supposed that through his influence Mr. Abraham was employed as architect upon the erection of a new library, and in consequence it generally goes by the name of 'the little Bethel.'

In the spring of 1860 a shocking tragedy occurred at Lewes. A gentleman named Hopley and his wife kept a school in this town. He had several scholars, and amongst them a boy of the name of Reginald Channell Cancellor, whose father was one of the Masters of the Court of Common Pleas.

This poor boy was of weak intellect, and Hopley,

whose own mind was, I am willing to think, distorted, exercised upon him a system of unceasing cruelty. He seemed to imagine that the weakness, partly natural, and partly the result of terror occasioned by his own conduct, was obduracy of temper, and the feebler he became in mind and body the more cruel were the tortures inflicted upon him. At last, during the night of April 21, his system of correction was brought fully to the test. Screams that sent terror into the hearts of the other pupils were heard during the long hours of the night. The poor children lay shuddering with fear and horror, whilst the wretched half-witted victim of a lunatic's system of education was deliberately mangled to death, and was found on the following morning a corpse.

I knew Hopley's brother, who was an artist, with some genius, but eccentric, living in St. John's Wood, and through him was retained to defend Thomas Hopley at the Lewes Assizes, where he was indicted and tried for manslaughter before Sir Alexander Cockburn. Mr. Cancellor, the father, was well known to all of us, which heightened the feelings we entertained. The plea of insanity was not set up, although for the credit of human nature I could wish that it should have been, and believe that it could have been supported upon the definitions of that malady that I have already discussed.

Cockburn was intensely affected, as he always was when sympathy was demanded. Hopley, being found guilty of manslaughter, was sentenced to four years' penal servitude, and issued from his gaol a circular, of which I will venture to transcribe the following portion. He advocated the formation of a 'grand model educational establishment,' with himself as the model Christian master, and his wife, married and educated by him for this express purpose, 'to aim at becoming the model Christian mistress.' The lady, however, did not appear ambitious of the position, or to approve of the system of education, for, some years after, she sued for a divorce, and obtained a decree for a judicial separation. What has become of him I know not. I hope I did my duty to him as his counsel, but I did not attempt to justify his system of education.

His poor brother, whom I sincerely pitied, had expended years in painting a picture called, as far as my recollection serves me, 'The Building of a Pyramid by an early Egyptian Queen.' The slaves, with enormous difficulty, are supposed to be bringing the materials from immense distances, and the work represented on the canvas was not feebly portrayed by the labour exercised in its delineation. The minutiæ were very exact and carefully executed, but there was no great imagination displayed in its construction, and it did not command

success adequate to its great elaboration. It was, however, his idol. He parted with it to serve his brother, and, poor fellow! he mourned over it, and that and the disgrace of the trial hastened the end that a feeble constitution and many disappointments had long threatened.

Sir Alexander's sense of justice, as well as energy in pursuing it, was evidenced recently in a matter about which he had many years before formed a strong opinion. When he was nearly a briefless barrister a case was tried upon the Western Circuit before Mr. Justice Williams. This was not the eminent lawyer and distinguished judge, Vaughan Williams, but the 'Johnny' whose jokes I have recorded. The prisoner was convicted. The details would afford no amusement nor add any point to the anecdote that I am relating; it is sufficient to say that he was sentenced to transportation for life, and, notwithstanding very earnest endeavours on the part of Cockburn and others who considered the evidence to be unsatisfactory, underwent a great portion of his sentence, and it was only recently that, the case being again ventilated, the late Lord Chief Justice, in the midst of his pressing avocations, renewed with unabated energies his endeavours on his behalf, and with success. The innocence of the convict, now bowed down by years, has been recognised. He has

received a free pardon, and a sufficient pension for his remaining years. It is not only in this case that the public has to recognise an enlightened change in the constitution of the Home Office. I am glad to take this opportunity of mentioning a very dear and valued friend of mine, and many others of former days. I allude to a gentleman named Scherer, a shorthand writer, very accomplished in his own profession, and possessing other qualities which endeared him to many friends at the bar as well as elsewhere. He was one of the most earnest believers in the innocence of the person I have referred to, and energetic in his endeavours on his behalf. Poor Scherer's premature death did not enable him to reap the reward of his disinterested exertions, as his friend Cockburn had the satisfaction of doing.

Sir Alexander Cockburn never shunned hard work, and amongst his efforts will be remembered an elaborate address to the Chancellor protesting against the appointment of the judges to try election petitions. All his brethren concurred in it. However, it may fairly now be said that the evils anticipated have not been realised, and that the judges retain in their performances of these duties the same character for impartiality that follows their career in all others imposed upon them.

The intense labour and research which he brought

to bear upon the discussion of the Alabama Claims, and his luminous work upon the subject, strikingly illustrate the various qualities of his mind, and are matter of world-wide interest.

I have only to add that I think that the late Lord Chief Justice would form a worthy object for a far more skilled biographer than myself. I trust, nevertheless, however far I have been from exhausting the subject, that I have not done injustice to a man who undoubtedly is entitled to a distinguished place upon the page of English history.

I am now about to record, not at any length, two cases in which I was engaged, and which were presided over by a judge of a very different type and character from the one I have just parted with. I have already introduced Lord Blackburn, and recounted some of his proceedings during the election campaign. He also is worthy of record by a graver and more learned pen than I possess. I have no doubt that there are those who can speak of hours spent by him in indefatigable pursuit of the deep and profound knowledge that, since his promotion to the Bench, he has exhibited; and perhaps there are some who may have seen him in gayer scenes. His great patron, Lord Campbell, was once met at Cremorne Gardens, studying, as he said, human nature. Lord Blackburn preferred seeking it in Coke upon Littleton, without assistance from the

haunts of revelry. I have never heard of his hanging over the chair of any north country maiden, whispering soft words into her ear, or exhibiting the activity of his person in the mazes of a waltz or even of a highland reel. He was wont to sit in a back row in the Court of Queen's Bench, and greatly are Lord Campbell's judgments indebted to his clear and profound appreciation of law. Latterly, before promoted to the Bench, he was entrusted as junior with heavy mercantile causes, but never with the lead; and, except amongst the solicitors who thus had experience of him, it could not be said that he had obtained reputation even as a lawyer. His appointment by Lord Campbell was viewed with surprise, and people were astonished when they subsequently discovered that there were such excellent grounds for it. His manner upon the Bench was harsh and ungenial, but it was soon found that this was only his surface deportment. He was especially patient and painstaking. He had the fault that judges who have had little experience in the conduct of causes must necessarily have—an awkwardness in marshalling the facts of a case so as to suit them to the comprehension of a jury. But at the time of his translation to his present position he had become a most excellent nisi prius judge, and there was no one before whom I would sooner have practised.

Shortly after his appointment he went the Home Circuit, and got into a sort of fracas at Guildford with Mr. Evelyn, who was High Sheriff. It appears that Mr. Justice Blackburn thought it necessary to hear the evidence in the cases he was trying, which the noise in court rendered extremely difficult. He ordered a portion of the building, which at that time was a most inconvenient one, to be closed against the public. Mr. Evelyn published a placard declaring this proceeding to be contrary to law, and ordering it to be opened.

For this Mr. Evelyn was fined 500*l.*, Lord Chief Justice Cockburn, the senior judge, taking the opportunity of doing what he was able to do full well—making an extremely impressive address in inflicting the fine.

Mr. Evelyn had been misled by some foolish friends, and it so happened that Mr. Serjeant Shee and myself had passed the preceding Saturday to Monday at his very pretty place in the neighbourhood, and amongst those who did not know much about us we got the credit of being his advisers—of course, without foundation.

I will reserve the particulars of the two cases I have referred to until my next chapter. One was that of the Baron de Vidil, the other that of a German named Karl Frantz.

CHAPTER XIX.

CRIMINAL COURTS AND CRIMINAL JUDGES.

The Baron de Vidil was a friend of the Orleans dynasty, and whilst that family were staying at Twickenham he was in the habit of visiting certain members of it. He had a son, a youth, as far as I can remember, about nineteen years old, and the story I am about briefly to relate is a very strange one. The father and son were riding together in a secluded lane in the neighbourhood of Orleans House—it was in the June of 1861—when the young man suddenly received a blow upon his head, and, turning round, saw his father in the act of repeating it, and he did inflict several of a murderous character with a heavily-loaded whip, and it was at the time alleged that it was his intention to commit murder. The lad pressed his horse forward, threw himself off the saddle, and, covered with blood, sought the protection of a man and woman who happened to be passing. He first seemed disposed to accuse his father vehemently, and to disclose the causes of the attack, but after

a short time nothing would induce him to give any information.

The Baron escaped to Paris, but was delivered up to the English Government, and tried before Mr. Justice Blackburn at the Central Criminal Court. Sufficient evidence was obtained from the man and woman, who had witnessed part of the assault, to convict him of unlawful wounding, but, as his son remained resolutely silent, no more serious verdict could be procured. I was retained for his defence, but learnt no more than the rest of the public, and the events leading to the transaction remain still a mystery. Vidil was very well known in French society, and the circumstance of my defending him introduced me to the acquaintance of many of its members.

They could give no clue to the transaction, but I fancy for some reason he had previously been in ill odour. It was one of the earliest criminal cases tried by Mr. Justice Blackburn, and excited much interest at the time.

During the assizes following, a young man named Karl Frantz, a German, was tried before the same judge for the murder of a woman named Haliday, the wife of the parish clerk of Kingswood, in Surrey. This is the case that I have already mentioned in which Madame Titiens was examined, and if he had been clearly identified by

her, probably the result would have been different; but she exhibited some little hesitation, and the facts, which present no interest to the general reader, were circumstantial, though to my mind conclusive. I prosecuted the prisoner, and the present Mr. Justice Denman defended him with great ability and success, but I cannot help thinking that the result was an example of how a judge of intellect, however powerful, is embarrassed when called upon to deal with facts to which he has been previously unaccustomed, especially when they involve so serious an issue as the life of a fellow-creature. Mr. Justice Blackburn impressed those who heard him sum up upon this occasion with the idea that he was labouring under a sense of hesitation and doubt; and juries, always loath to inflict the penalty of death, were affected by his demeanour. On this occasion this very distinguished man fully exhibited his kindly nature and his inexperience.

I do not think that it is unfitting that I should take this opportunity to make a few observations upon a subject of vital importance in the administration of the criminal law. The amalgamation of the common law and equity systems is now an accomplished fact, although the procedure is still very different in the different courts, and judges are called upon to deal with causes by means utterly

novel to them; but this, doubtless, will all come right in time, after a reasonable number of suitors have been ruined; but I venture to suggest that this change affords the opportunity that has been long wanted of initiating a radical alteration both in the practice and the procedure of criminal courts. I certainly do not make the observations I am about to from any doubt of the eminent ability of members of what was called the equity bar; but surely it can hardly be conceived that they are fitted to be taken from the midst of affidavits, with no knowledge of oral testimony, or of the habits and character of those who occupy the proceedings of the Crown Courts, to preside upon some complicated question, involving the life, or the slavery for life, of a human being. And although I believe that the inexperience of the judge is far more likely to result in a guilty man escaping than an innocent one being convicted, a court of justice is one of those large stages upon which an incompetent performer is likely to create feelings weakening its efficacy and example, and may possibly be the cause of most calamitous results.

I have in former chapters taken occasion to refer to the character of particular classes of witnesses, to the temptations that exist in some matters to falsify facts, and the occasional deliberate manner

in which this is attempted. And it ought to be remembered that the Crown Courts are the arena upon which beginners are launched in the profession. Unlike the Civil Courts, the judge may not, and generally has not, the assistance of the ablest and most experienced advocates to take all human care that nothing shall escape notice that requires consideration, and therefore much more must necessarily be left to his experience and a mind assumed to be practised. In a civil proceeding, however small the stake, he can be corrected if he should err, and upon this ground new trials frequently take place. But no Court of Appeal exists to which a fellow-creature condemned to expiate a real or supposed crime upon the scaffold has a right to resort for the correction of erroneous law or a wrong conclusion of fact.

In the account I have given of a previous case I have shown the imperfect means existing in the hands of the Home Secretary, and the mischievous results that occurred from there being no others.

I wish that my observations should be of service and produce inquiry, and this object would not be attained by any exaggeration. I am confident of the earnest desire of those who are called upon to fulfil their novel duties to accomplish the object,

but they cannot by intuition jump into the knowledge that is required to do so.

As I conscientiously believe that the employment of untrained men to try grave criminal charges is a great and serious evil, I wish to show my entire absence of prejudice by quoting the admission from all quarters of the bar of the agreeable manner in which they have hitherto presided, but this is only what would be expected of highly-educated, kindly gentlemen. And I am by no means sure that a barrister likes a judge the less because now and then he lets him get a verdict that he has no right to expect.

I have often thought over the subject of an appeal in criminal cases before it was forced so prominently forward as it now is by the appointment of barristers to the Bench who have no experience in this class of work, and I believe no one doubts for a moment the principle, but, as I am aware, great and serious difficulties surround the subject, and it threatens an inquiry into the whole system of criminal procedure: and although I have neither the pretension nor ability to be a law reformer, my experience may enable me to give some hints not altogether useless to those who may be called upon elsewhere to deal with this subject.

Let me lay down some axioms which I believe are sound.

Harshness and over-severity affect seriously the administration of justice, by rendering juries unwilling to convict, and acquittals obtained through weakness encourage the criminal classes in the pursuit of their career.

In grave crimes, such as murder, a failure on one side or the other through want of experience on the part of the judge is always damaging, and may produce shocking consequences.

A commission composed of very learned men has been engaged lately in preparing suggestions for a code of the criminal law; and, no doubt, if such a production could be accomplished, it might materially facilitate the administration of justice throughout its different channels. I am doubtful, however, notwithstanding the energy and labour of Sir James Fitzjames Stephen and his associates, whether we shall ever see it accomplished. But I think that at very little expense of trouble much simplicity might be introduced where it is greatly wanted, and that in many instances tolerably accurate definitions might be secured. I think also that many offences clearly defined might be accurately classified, and that each person before his trial might with advantage be supplied with a statement of his offence in intelligible everyday terms. I do not think any real, substantial good can be effected without the creation of more judges,

and it has occurred to me that this might really be made the means of saving instead of creating expense, and at the same time effecting the much-desired object of a Court of Appeal. I think that members of the new body should sit throughout the year, as the police magistrates do, a quorum of them to hear appeals, and the others relieving the different gaols. I should give the right of appeal in all cases, subject to certain limitations determined by the punishment inflicted—at all events, to begin with.

The Court of Appeal ought to have the power of both diminishing and increasing the punishments inflicted by the judges of first instance. It would not be called upon to rehear the cases, but decide as is done at present by the tribunals who hear motions for new trials in civil suits, members of the Criminal Appeal Court being embodied with the High Court of Justice, and receiving aid from their brother judges. In the above sketch of a plan that has long occurred to my mind as being a basis to go upon, and in any endeavour to amend the present state of things, I should not, of course, interfere with the privilege of the Crown to remit sentences, but should give it the assistance now so fatally wanting of coming to a conclusion upon substantial grounds.

The facilities and cheapness with which the

metropolis can now be reached induce me to think that the ambit of the Central Court might be extended with advantage to further distances, and that a court upon similar principles might be established in the larger towns. There would be no objection to the aldermen still pursuing the duties that they now so innocently perform, but elective judges ought summarily to be abolished.

I wish also that our legislators would give their attention to the question whether a system of transportation could not be established. I am confident, as I have said already, that it is the most preventive punishment (unless death is excepted) that has been inflicted in modern times, and I look upon convict prisons and the system pursued in them with great misgivings. The inmates appear to me to have a sodden appearance, and there is a painful similarity in their faces to those whom a visitor will see grouped in lunatic asylums. I believe that with no small proportion of the criminal class the hope of their being reformed is utterly contradicted by experience, and yet the idea of imprisonment for life is repugnant to our feelings, and in many instances would be unjust. How can society be benefited by the convict of some four or five years being handed back to his old associates? Even if he have the desire to reform, he has overwhelming temptation to follow his old courses.

Society, too, gives him no aid in an honest endeavour. Where is the householder who will, knowingly, take the released felon into his establishment? And therefore, if he succeed in obtaining any employment, he must do so by concealment, really amounting to a fraud upon the employer—a bad beginning for an honest service. And there are the eyes of two sections of mankind constantly upon him—his former accomplices, and his more recent but not less dangerous acquaintances, the police.

CHAPTER XX.

THE TRIAL OF THE GAEKWAR OF BARODA.

WHEN first I determined to present such memories as I thought might interest or amuse the public, it occurred to me that my professional voyage to India would naturally be considered one of the most important incidents in my career, and not an unfitting one with which to conclude its records.

The events that had preceded it were of an unusual, and, it might be said, an almost romantic character. It was alleged that a great crime had been committed by a monarch of an important territory against the representative of the British Government accredited to himself.

It was considered of so weighty a character that the Governor-General determined that it should be investigated in a form hitherto unknown, and without a precedent, and bringing to bear to the inquiry the most solemn and weighty elements that it was possible to employ; and upon the application of the accused potentate, every facility was afforded to him of obtaining such assistance as his

advisers deemed would be desirable for his protection and defence; and there being some difficulty in securing the services of one very eminent member of the Calcutta bar, it was determined to retain counsel from England; and accordingly Mr. Hawkins, Mr. Henry Matthews and myself were applied to, and I accepted the retainer, it being the first that was ever received by a member of this bar to appear as advocate upon any trial in India.

But although I have for some time contemplated giving an account of the circumstances that occurred, now that I am sitting down to the task I am sensible that it is surrounded with many difficulties. I not only do not feel myself competent to deal with the political aspect of the affair, but should be extremely unwilling to do so. My position, and I strictly maintained it during the trial that took place, was to deal solely with the facts, with a view of proving that they did not support the allegations against the accused Prince; but in the retrospect I am about to take of them it will be impossible to avoid some comment that trenches upon the proceedings of the Executive, and I hope that I shall not exceed my fair privilege if I endeavour in doing so to ameliorate the present condition of my late client. If anything that I could write could interfere with the new state of things established in the country, I should not feel

justified in writing them. But years have now passed. A dynasty has been changed, and I have neither desire or right to attack a policy established upon the responsibility of the rulers of the country.

Once upon a time a voyage to India was an event, and a story might have been woven out of it. How amusing are many of the characters and scenes in Captain Marryat's novels. Some of my readers may remember by the sides of the river Thames the great hulls of splendid ships mouldering away. These were the old East Indiamen. When the trade was thrown open, smaller and quicker vessels carried away the traffic, and then the whisper went forth of reaching India by an overland route, and even when that was accomplished something was still left for an imaginative traveller to record—the bumping over the desert upon the unaccustomed camel, and if wild Arabs were not met with they might still be pictured ; but now there is a prosaic railway that takes the traveller from Alexandria to Suez, where he is met by the splendid steamships of the Peninsular and Oriental Company, and transported, rarely with any accident, to lands not so very long ago undreamed of, except by a comparatively few travellers. There has been a misadventure in modern times, which made the subject of one of Tom Taylor's most popular and

amusing plays. An officer on board the 'Australia,' the vessel by which I went from Suez to Bombay, was one of the crew on board a P. and O. ship that was wrecked upon a rock in the Red Sea during its return voyage. My informant told me that the incidents that occurred were related with considerable accuracy by the dramatist. The play came out at the Haymarket Theatre. Buckstone and Compton were amongst the performers, and I think pretty Mrs. Fitzwilliam. I heard from my informant the name of the English officer who was stopped making off with a bottle of bitter beer. He was well known in the army as a soldier of distinction and gallantry, and his succumbing to the illicit charms of a bottle of Allsopp's ale created universal astonishment amongst his comrades. I ought to have mentioned that as it was doubtful how long the passengers and crew might be kept in their unpleasant position, the provisions were placed under a guard. The reference I have made to the marine service enables me to mention a dear old friend of mine who had commanded one of the former East Indiamen—Captain Mackeson. Whilst the vessel was in (I believe) the Chinese seas an insane sailor inflicted a severe wound upon his head, which invalided him, and he was obliged to retire from the service upon a pension. He located himself upon that very pretty spot, the Terrace, at Hythe, in Kent, and at his hos-

pitable house I spent more pleasant hours than I can remember at many other places. A son of his was at the Chancery bar, and a cousin, whose agreeable society reminds me of my old friend, is a member of the bench of the Inner Temple.

When in olden times a barrister embraced the opportunity of going as a judge to India, he was prepared to be expatriated for ten years at least. Now he can spend his long vacation in his native country. It was not long after Sir Richard Garth had gone to India as Chief Justice that I saw his genial countenance while he was getting into a hansom at Charing Cross, looking just as jolly as it was wont to do when mixing in the circuit convivialities, of which he may perchance remember one occasion at the Salisbury Arms, at Hertford!

I had not been over well for some time before I accepted the retainer to defend His Highness Mulhar Rao, the Gaekwar of Baroda; but after obtaining some excellent instructions and advice from my old friend and medical adviser, Oscar Clayton, which I supplemented with a favourite prescription of my own, I started on a certain day in January 1875, *en route* for India. I gave myself time to enjoy a dinner at Paris, and made my way onwards over the Mont Cenis pass to Bologna, where I stayed for the night (and a very interesting old town it is), and then proceeded to Brindisi.

As the train approached the shores of the Adriatic it was by no means pleasant to hear the howling of the wind and the dashing of the waves. We reached Brindisi before it was light in the morning, and the locality was certainly the reverse of inviting. The passengers were turned out amidst rain and mud, and found very wretched accommodation. It was difficult to get information as to when the vessel that was to convey us to Alexandria would start, or indeed where it was. The light, when it arrived, did not add to our satisfaction with the prospect. However, at last I found the ship, which was not likely to start for some time; but when, was very difficult to find out.

There was a rough sea and drizzling rain. I heard that there had been some unexpected change, either in the captain or some of the arrangements, which had caused delay; but at last we started, and on the evening of the third day arrived off Alexandria. The harbour of this port is very dangerous, and the pilot would not take us in until daylight, and so we remained rolling upon a nasty sea until morning, when we reached our destination; and here again we had to wait a considerable time, no one seeming to know when the train for Suez would start. I saw nothing of interest, and, not knowing what time there was to spare, made no endeavour to do so. Towards mid-day our

journey began, and we arrived at Suez in the evening, when we ought to have embarked on board the 'Australia,' which had sailed from Southampton, but had got stuck in the Canal on its way. We were not inconvenienced by this, as we were received with great kindness for the night on board a very fine vessel belonging to the company—I believe the 'Pekin'—and on the following morning the 'Australia' made its appearance. This vessel was at that time, and may be now, one of the finest of the company's fleet, and was commanded by a gentleman the son, I believe, of a Presbyterian minister.

His name was Murray. He gave me the impression of being a first-rate seaman, and was certainly possessed of great intelligence and information. I received from him much courtesy, and greatly enjoyed his society. He had very rigid and scriptural ideas, accepting literally the contents of the Old Testament; and had made it a labour of love to verify localities which he supposed to be described in connection with the Red Sea. His views as to the point selected by the Israelites for crossing were very firmly fixed, and his reasons, which I will not pretend to transcribe, given with earnest faith.

There were no adventures upon the voyage. The weather was lovely and the passengers pleasant. There were two very pretty brides, very much

engrossed with their husbands, one married to an officer, the son of a medical man whom I knew in London, the other to a wealthy planter or merchant in some remote part of India.

A cynical old major, who had been the voyage backwards and forwards many times, said that the fair brides were much more general in the distribution of their agreeable qualities upon the return passage. There was a colonel going out to conclude his period of service. He was accompanied by his wife, who had passed many years in the best Indian society. I cannot remember their names. I wish I could, if only to identify them with the pleasure I enjoyed in their society. There was an elderly maiden; but her companion was an ill-tempered cur of a dog, whom she insisted, against all the rules, in taking to her berth, where it indulged in the most dismal howling. One morning signs of lamentation and woe, not canine, but female, proceeded from where she slept. Her companion had disappeared and was never heard of again. And there were grins upon a mischievous-looking face, the owner of which had complained bitterly of his rest having been disturbed by the aforesaid animal. Some flying fish we saw, but not many, and I do not remember their having been caught.

For two nights the constellation of the Southern Cross was visible. The name has somehow created

an idea that it is more beautiful than it really is. Still it is something to have seen. One night I was with the captain upon deck, and witnessed what to me certainly was a phenomenon, and I think that my companion told me that he had never witnessed it before. Although there was a slight motion on the vessel, the entire ocean presented an appearance that I can only liken to an immense bowl of cream with invisible sides.

There did not appear to the eye the slightest movement. The appearance lasted for many hours. We had some of the water drawn up, and it appeared to be of pure sea-green hue. Captain Murray could not in any way account for it. I may be writing of something that others more conversant than myself with voyages may have seen and can explain; but I cannot spare recounting one of the few incidents of my only passage up the Red Sea. We had one visitor—a quail. Where it came from, Heaven knows; but the pretty creature met with a kindly welcome. I cannot say what became of it, but when we arrived at Aden it was offered its liberty, which, however, it was wise enough to decline, in view of a number of kites that were gathered around the vessel. We were persecuted to buy ostrich feathers at a higher price than we should have got them in Regent Street; and the scene that most of us have witnessed from the windows

of the 'Trafalgar Tavern,' at Greenwich, was not badly imitated by a parcel of young blackamoors sporting around the vessel. Aden is a wretched hole. We landed and were received kindly enough by the English Resident, but there was nothing to eat, drink, or see. We soon proceeded onwards. The weather still continued fine, and, after a quick and pleasant voyage, came to an anchor off Apollo pier, the harbour of Bombay, where I was met by the Gaekwar's solicitors, Messrs. Jefferson and Payne, and after a really regretful parting from many of my fellow-passengers, and my friend Captain Murray especially, and being interviewed by a very kind and complimentary member of the press, was taken off to the pretty residence of Mr. Jefferson, who received me as his guest during the time I remained in Bombay, and from whom and his family I met with much kindness and hospitality.

The house occupied by my kind host is in the portion of the city inhabited by all the principal people of Bombay, and, I imagine, the only portion habitable with any comfort. It is a declivity sloping down to the harbour, called Malabar Hill. The residences are built with great taste, and the spot is very beautifully planted. The villas themselves have gardens of greater or less extent, filled with beautiful shrubs.

The city itself, as I then saw it for the first

time, presented, with this exception, nothing to charm the eye. The appearance that it impressed upon me was as if it had lately been in the hands of some bankrupt builder. There were no hotels of any pretension, or, as far as I could learn, of reputation. There was a very handsome club, called the Bycullah, of which I was made an honorary member, excellently conducted; some fine shops, most of the articles coming from England, and very expensive.

A feature which did not present much attraction to me was the Parsee cemetery, about a mile from the town. This was a very large building, surrounded by high walls, over which passers-by were not able to see. This sect do not bury their dead, but lay them naked upon benches which are attached to the walls inside. Certain ceremonies are performed, and the bodies are left for the consumption of the birds of prey, of which there are a multitude about the city. There is not a great variety of food for human beings; and, although upon the sea, the varieties of fish are very few, the only good one being a flat fish, somewhat larger but not unlike our flounder. I forget its name. There are also prawns, and I have a grateful recollection of a dish of them curried, at a dinner given me by one of my *confrères* at the club.

Popular barristers make considerable incomes,

but the expenses of living are very large; and it is impossible to practise without the possession of a carriage, and numerous servants also appear to be indispensable.

To me the air was detestable; and, although there undoubtedly is a sea breeze, it is relaxing and depressing. I cannot imagine a European having energy in such a climate for hard work, but constitutions vary and some get on very well. I dined, upon the two visits, before and after I had been to Baroda, with the Chief Justice Westropp and also with Mr. Justice Bayley, meeting with very elegant entertainments at both houses.

Shortly before my arrival a somewhat eccentric member of the bar, whom I had known well in London, had died—Mr. Chisholm Anstey. He had been in Parliament, where he was so indefatigable in worrying everybody that the Government made him Attorney-General at Hong Kong, and he celebrated the night before that fixed for his departure by breaking the heads of a couple of policemen, and thus nearly lost his appointment. I was instrumental in settling the matter for him. At Hong Kong he continued to commit such vagaries that he was recalled; before being so, there had been two unsuccessful attempts to poison him. He then settled down, as far as he could settle, as counsel at Bombay, where he became very popular with the

natives, whose interests he advocated with great zeal, energy, and ability, and was a considerable thorn in the sides of the constituted authorities.

In my chapter upon Evans's, I ought to have mentioned him. He used, after having been heard of playing some prank at the Antipodes, to walk as calmly into that resort as if he had never left the Temple. He was really a genius, but was lucky not to have ever been rich enough to invite the attention of certain proprietors of lunatic asylums.

CHAPTER XXI.

TRIAL OF THE GAEKWAR.

After having been treated during my brief stay at Bombay with the greatest kindness by every one—but certainly having come to the conclusion that, charming as is the society, the city itself does not furnish many attractions—I started a day or two before February 23 for the scene of my professional performance. Until I learnt that I was fated to defend the monarch of Baroda, I must confess that I had never heard of such a place, and the title of Gaekwar—or Guicowar—had never reached my ears. I learnt what I could about it, and although by no means anxious to do anything in the handbook line, I must, to make my story intelligible, borrow some statistical information upon the subject, which I do from a book published, I believe, by the authority of the Government of India, and which, containing as it does the official account of all the proceedings, including the trial of his Majesty, I shall use throughout as my authority, except when I name any other. Baroda, then, as I learnt, was the largest independent State

in Western India, and contains a very extensive population. The original meaning of Gaekwar was 'cowherd,' of which the possessors are proud, and their dominion is over Guzerat and other provinces, of which Baroda is the capital. The history of more than a century and a half of this country and its rulers contains the ordinary amount of crimes, insurrections, treasons, and intrigues which is usually to be found amongst Indian nations; but I shall leap over them all, and I do not recommend my English readers, if they have anything else to do, to add to their information upon these subjects. I must introduce them, however, to the potentate who preceded my client upon the throne.

This was Rhandi Rao, who died suddenly—not unfrequently the case in the family, and whoever profited by the death being always suspected of causing it, my client accordingly, without the slightest shadow of proof, had to accept the common suspicion. When, however, Rhandi died, his youngest wife was *enceinte*. Her name was Jummabee, and if this young lady bore a boy the throne would pass to him. She, however, lost the chance of being Queen Mother by becoming the mother of a girl. My client, Mulhar Rao, thus became monarch.

He was passing his time in prison when called to the throne, which does not appear to have been

uncommon with this pastoral dynasty. Before I give an account of the trial, I shall give a short sketch of proceedings that had preceded it, and which will be required for the purpose of its comprehension, but I think that I have said all that is necessary before commencing my journey from Bombay.

Early in the morning the train started from the outskirts. The distance we had to travel was 250 miles in a northern direction. The railway seemed well constructed, the carriages comfortable, and the pace tolerably good, although not rapid. I need not mention the different towns at which we stopped; but it was known that I was in the train, and I cannot doubt that the Gaekwar was popular amongst the native population from the reception that I met with, which then, at all events, could only be attributable to that cause. As we approached his territory, lunch, called by some name that gave it importance, was prepared; and I had roses showered upon me and addresses presented to me by men whom I was given to understand were of high class and position. I am by no means insensible to compliments, but I felt a good deal embarrassed by so unusual a display; and I could not help recalling one occasion, the only one, that I went to the Lord Mayor's feast in my scarlet robes, and was received from

Chancery Lane to the Guildhall by the population of that extensive thoroughfare with immense delight and applause, under the mistake that I was an alderman. Upon the occasion I am now relating, a hymn had been composed in my honour, which was recited. I have since received a translation of it,[1] and am afraid that, as upon the civic occasion, an imaginary idea possessed my admirers. As the train approached its destination the welcome became still more demonstrative, and I was not sorry, upon the arrival at the station, to get off to the residence that had been prepared for my reception two or three miles off. This was not palatial. It was a bungalow, and situated upon an extensive plain where all the Europeans resided. There was an English regiment whose barracks were also there, and the Government residence, then occupied by Sir Lewis Pelly, and under his surveillance the unhappy object of all this commotion. Other bungalows were occupied by English officers and their wives, some of them young English girls of position when in the home country, and who were subjected to inconveniences which none of them could have anticipated, but which they bore with no outward signs of discontent.

Mrs. Scobell, the wife of the Advocate-General of Bombay, and who was counsel for the Crown.

[1] *Vide* Appendix.

had come down by the same train that had brought me. I was much gratified in being introduced to her, and by my subsequent very pleasant acquaintance. Her husband had been on the same circuit as myself, and it is not necessary to say, both in his reception and in our subsequent encounter in court, was most thoroughly courteous and obliging. When we arrived there was some appearance of grass upon the plain, but after a week it had disappeared, and the sun took uncontrolled possession of the place. It was only in the very early morning and the late evening that it was possible to be exposed without covering.

There was a garden with shrubs and flowers, in which in these early mornings might be enjoyed a pleasant stroll, but the neighbourhood furnished but few attractions, and beyond what was called the compound there were no roads. I was very kindly supplied with an open trap and a pair of Arab ponies, not very amenable to discipline, with which I used to drive about the outskirts and into the town, which I will presently describe. I think the sight that struck me as most strange was a solemn-looking conclave of monkeys, seated under a large tree, whilst others were reposing upon the branches, and some ten or a dozen natives at a short distance apparently worshipping them. I was told that a person's life would not be safe if he injured one of animals.

rank on horseback, and native soldiers were numerous throughout the town; amongst others, a regiment dressed in a costume similar to that of our Highland regiments, and having a certainly picturesque appearance, though it was strange to our eyes to witness their swarthy faces and slight, lithesome figures clad in such a garb.

There was no display of merchandise in the shops, and the external features of all the buildings, whilst quaint and apparently governed by no fixed principle of architecture, had the common attribute of neglect and dirt. There were palaces that offered no exception to this state; and at the entrance of the town an old gateway and dismantled tower, whilst it gave picturesqueness to the appearance, added to the gloom. It was around another gateway about the centre that I saw the Highland regiment grouped, lounging idly, and showing little appearance of discipline. I was struck by seeing a species of leopard called a cheetah led through the street fastened by a chain. These are used for hunting deer, but the sport is cruel and without excitement, the unfortunate victim never really reaching its full speed before its enemy is upon its haunches. In the streets there are some fine trees, called, if I remember correctly, pupull trees, but they add to, rather than diminish, its sombre character. Amongst the quadrupeds that

occupy the streets no small proportion are camels and elephants, and upon one occasion when I was driving my ponies through the town, I found myself most unpleasantly obstructed by the back of a camel, whilst at no great distance from my head was the trunk of an elephant; but really, whatever may be the case of the population, the quadrupeds are extremely well-behaved. I was introduced to a den of wild animals, amongst which were several large tigers fastened to staples in the walls, and not leaving very much space for visitors to walk. I confess that I eyed the chains with considerable interest, to use no more forcible expression. The keepers seemed upon perfectly good terms with them, but I was more astonished at finding one of these animals in a yard open to the street, fastened in the same way in a corner of it. Those who expected rich stuffs or jewellery to be displayed, or gorgeous and tempting shops of any kind, would have been sadly disappointed; there was nothing of the kind; dirt everywhere was what struck the visitor most. I had the honour of being introduced to her Majesty, one of the wives of the Gaekwar, through a thick trellis work. She was most gracious, but I have no distinct recollection of her conversation. The palace where this distinction was conferred upon me was as grimy as all the other places to which I had been introduced.

There may be some Eastern word meaning comfort, certainly there was no Eastern habit that I saw representing it. I cannot flatter myself that I have conveyed any very accurate idea of this scene of a city that has been the arena of many a memorable performance during many centuries. It is, however, the best that I am able to pen. There was really nothing to excite admiration, either in the buildings or the demeanour of the people. All life, in which amusements or pleasure could form a part, seemed to be smothered. Nevertheless, the passage through it left upon my mind the impression of something stranger than had ever before been presented to my senses.

I was not at all sorry to get back to my bungalow. Mrs. Branson, the wife of one of my brother counsel, acted the good Samaritan, and by her knowledge, activity, and good-nature not only afforded us pleasant society, but managed the establishment so as to make our lot extremely comfortable.

Every morning a present was brought to us from her Majesty, consisting of fish and fruit, accompanied by many polite messages, and these viands were, no doubt, the best that could be procured, but were not at all remarkable.

Amongst the personages who took no actual part in the trial, but who added greatly to the

comfort and amusement that I derived from my visit to Baroda was Sir Lewis Pelly, whose distinguished and long service in the Government of India is too well known to make any description of its details necessary. The tact with which he effected the capture of the Gaekwar, and his good taste and courtesy, as far as it was possible to extend it towards his captive, was admired by everyone; and during the painful ordeal that the unfortunate monarch had to undergo, when practically under the surveillance of Sir Lewis and living with him at the Residence, nothing could exceed his captor's kindly behaviour, and I know that the Gaekwar fully appreciated it. To the counsel engaged Sir Lewis Pelly extended much hospitality, and we had very agreeable gatherings at his table during the progress of the trial.

What he thought or what he knew were not for public ears. Whether the view he took of His Highness was favourable or the reverse no one from his manner could tell; but I entertain a very strong opinion that if early in the transactions he had been entrusted with the management of the affairs of Baroda, I should never have had the honour of defending an Eastern potentate upon the charge of attempting to poison a British representative.

It is very ungrateful of me not to remember the names of the officers, or the designation of the

English regiment, whose rooms were opened to us, and from whom we received such frequent and kindly welcomes. It was, however, a regiment to which my brother was attached during his lifetime, and I heard a great deal about him. He seemed to have been a particular favourite.

It did not appear to me that there existed any intercourse between our countrymen and the inhabitants. The Residence and the barracks rendered our stay more than endurable, and I for one have a most grateful recollection of the courtesies received at both.

One trifling incident afforded me amusement during my early morning walks. This was the docility of a partridge, which followed a man about the fields like a dog. I was told that this is not an uncommon mode of training these birds. I used to look forward to witnessing its performance, and its possessor seemed gratified at a very moderate present.

CHAPTER XXII.

THE MEETING OF COMMISSIONERS.

It is superfluous to mention that shortly after daybreak on the morning of February 25, 1875, Baroda was in a blaze of sunshine, for such was the case every day during my sojourn. No rain, no dew. The grass, a few blades of which did meet my eyes two days before, was burnt out of sight, and the heat threatened a sunstroke to those who were exposed to it for a moment.

Yet on this particular morning everything was as much alive as it could be. The monarch of a country embracing 4,400 square miles, and containing a population of 5,000 persons to each mile, was about to be put upon his trial for the attempted murder of an English officer, holding the post of British Resident, and great potentates had consented to assist in the solemn duty, whilst the Chief Justice of India had been deputed to conduct the inquiry after European fashion, with the assistance of a military and civil officer, each most distinguished in their relative positions. A guard of infantry and a troop of lancers did no more

honour than is due to Maharajah Scindia, the great Mahratta potentate, tried and trusted friend of England. His appearance was such as to command respect in any country, and I cannot deny myself the pleasure of copying a few words of description taken from an admirably conducted paper—the 'Times of India'—of what it presented on this eventful day: '*Burly and princely, an Oriental Harry the Eighth in outward semblance.*' The writer might have added, 'before the English monarch had impressed upon his features the marks of gross self-indulgence, selfishness, and cruelty.' For Scindia's is a countenance noble and pleasant to look upon. Sir Dunker Rao, a Hindoo possessing great weight with his fellow-countrymen, and esteemed a very able administrator, was another of the judges, and the third native one was the Maharajah of Jeypore, highly esteemed by the English Government.

Sir Richard Couch, Sir Richard John Meade, and Mr. Philip Sandys Melvil constituted the English element.

No one can doubt that Lord Northbrook, in the selection of such a tribunal, could have had no other object than to elicit the truth. Naturally Sir Richard Couch conducted the proceedings, and although I cannot agree with the result that he arrived at, it is impossible that any inquiry could have been managed with more fairness and im-

partiality. No impediment of any kind was presented to the defence, and certainly the earnest attention paid by every member of the court showed their full appreciation of the importance of their position.

The Honourable Andrew R. Scobell, Advocate-General at Bombay, and Mr. Inverarity appeared for the prosecution. With me were Mr. Branson, Mr. Purcell, Shantaram Narayan, and Wassudeo Juggonault. For myself, I cannot forbear saying that my reception was most cordial and kind, both from the Bench and my brethren at the Bar.

The accused Maharajah sat upon the bench, Colonel Sir Lewis Pelly sitting beside him. I have before me, whilst writing these lines, a singularly lifelike picture of His Highness, presented to me by himself after the trial, with many kind messages, and I do not think his face was unprepossessing. His dress was in singularly good taste; his demeanour quiet and dignified.

In conveying my opinion upon the result and the evidence it was founded upon, I am quite aware that the habits of life and the customs of the country presented very different features from what I had been accustomed to deal with; but I find, in the judgment of the native members of the Court, that my views are in many respects adopted by men who may be fairly assumed to know their country-

men and their habits thoroughly; and it also is observable that my conclusions are drawn from incidents, many not controverted, and from the conduct and testimony of the accuser himself, which does not seem to me to have met the attention it deserved from the English members of the Commission, and, consequently, not from the Government of India who adopted their views.

At the time that the inquiry took place, Mulhar Rao had only been upon the throne for five years. During the two first, Colonel Barr, and after him Colonel Shortt, had filled the place of British Resident, and they seem to have behaved with prudence. In March 1873, Colonel Phayre was appointed.

He was fussy, meddlesome, and thoroughly injudicious. There were two adverse parties in the State, and instead of holding himself aloof from both he threw himself violently into that opposed to the Gaekwar, and was greedy to listen to every accusation and complaint that with equal eagerness was gossiped into his ears. His annoyances and constant slights to the Gaekwar were such, that a despatch was sent by the latter to the Government, in temperate and judicious terms, praying for his removal; and its date is most material—namely, *November* 2, 1874, seven days only before the alleged final attempt at poisoning, but almost if not

quite cotemporaneous with the alleged tampering with servants.

The tone of his despatch may be judged of by the following sentence: '*I beg it to be understood that I do not impute other than conscientious motives to Colonel Phayre.*'

Colonel Phayre had been asked to resign by the Governor of Bombay, which he had declined doing, and towards the end of November was actually dismissed by the Governor-General in terms the reverse of complimentary—indeed, to the effect that he utterly misunderstood his duties;[1] and it was not denied that the intention to remove him was probably known to the Gaekwar on November 9, the very day of the alleged attempt to poison; and if not actually known, his own despatch still remained unanswered. This state of affairs, which appeared to me nearly conclusive against his guilt, was scarcely adverted to by the English Commissioners; and it cannot be denied that it materially impairs the value of Colonel Phayre's evidence, whilst showing the absence of motive on the part of the Gaekwar.

Independently of these facts, his mode of giving

[1] The words used by Lord Northbrook to Colonel Phayre when dismissing him from his post were: 'That he had thoroughly misunderstood the spirit of the instructions both of the Government of India and the Government of Bombay, and that the duty of Resident could no longer be entrusted to him with any reasonable prospect of a satisfactory result.'

evidence was not satisfactory. It was not until reprimanded by the President that he admitted his conduct in Scinde. He very unwillingly, and after long pressure, owned that he knew of the despatch sent to the Government complaining of him and seeking his removal. He was obliged to admit receiving the suggestion from the Governor of Bombay that he should resign, and that this was probably known to the Gaekwar; and that about November 13 he received a despatch from the Central Government dismissing him in terms of censure for his bad management of the affairs of Baroda.

The English Commissioners do not appear to have considered that these circumstances affected the reliance to be placed in his testimony, or tended to show an utter absence of motive for the crime attributed to the Gaekwar.

The press in England almost universally demurred to his evidence as unsatisfactory. It is necessary that I should now give his own account of the important transaction on November 9, prefacing it with his assertion that warning had been previously given to him that such an attempt to poison him was contemplated. He said that upon coming home about half-past seven in the morning he found his usual tumbler of sherbet upon his wash-hand stand; that he drank two or three sips,

from which he derived unpleasant symptoms; that he sat down to write for twenty minutes, and feeling worse, and being satisfied that it arose from the sherbet, *threw the contents out of the window that he might not be tempted to drink it*, leaving a small brown sediment at the bottom.

The next step taken by the Colonel presents us with pregnant evidence of his unfitness for one of the most delicate trusts that could be reposed in an official in India. In hot haste, and upon the very day when the alleged attempt took place, he telegraphed to the seat of Government in these words, 'in Hindostani,' so that there should be no difficulty in everyone through whose hands it passed understanding it:—

From Colonel Phayre, C.B., Resident, Baroda, to the Private Secretary, Gunnesh Khind, Poonah. Bold attempt to poison me this day has been providentially frustrated. More by next post.

It next appears that some of the *débris* amongst which the sherbet was thrown was scraped up by Colonel Phayre's order, and this, with the small residuum at the bottom of the tumbler, was analysed by Dr. Seward and Dr. Grey, who stated that they had discovered poison; which fact was communicated to the Colonel, who replied to Dr. Grey in the following most remarkable letter, dated November 13, 1874.

After acknowledging the receipt of Dr. Grey's letter, he proceeds:—

"With reference to the statement made in your letter, that the powder forwarded to you consisted partly of common white arsenic and partly of finely-powdered silicious matter, which, under the microscope, appeared to be rather powdered glass or quartz, being most likely the former, I should feel much obliged by your kindly informing me whether, in your opinion, the silicious matter referred to can *possibly be* powdered diamond.

Previous to the receipt of your letter under reference, I had received secret and confidential communication that the poison administered to me did consist—1. Common arsenic; 2. *Finely powdered* diamond dust; 3. Copper.

The importance of verifying this communication is obvious.

R. PHAYRE,
Resident.

When I call the attention of my readers to the policy pursued by the police towards some of the witnesses, and also to the fact that the greater part of the evidence was founded upon the supposition that diamond dust was purchased by the Gaekwar, it will be admitted that the terms of the above letter are very extraordinary.

I naturally desired to know from whom Colonel Phayre received the secret and confidential communication referred to in his letter. He steered clear of the question, and I could obtain no satisfactory reply without seeking and obtaining the assistance of the Commission. It seemed singular that he should forget the name of a person or persons whom he described in such terms, and

whom he must have been in communication with within two or three days of the alleged attempt; but it was only after a considerable time that at last the name of a certain Bowh-Poonaka was disclosed—notoriously the bitterest enemy of the Gaekwar, and the man who had been for years fostering charges against him. It is not within the compass of this book that I should dissect further the evidence given by Colonel Phayre; but the remainder would certainly not create a favourable impression of his discretion. It is not, however, unimportant in my view of the case to mention that Bowh-Poonaka had complete access to Colonel Phayre's dressing-room, and was proved to have been there upon the morning in question.

CHAPTER XXIII.

CONTINUANCE OF THE TRIAL.

THOSE of my readers who have been interested in the perusal of the foregoing pages will have understood from them that the scrapings from the spot where the bulk of the sherbet was thrown by Colonel Phayre, and a small residuum that remained at the bottom of the tumbler which contained it, were the subject of the analyses of Drs. Seward and Grey. There was, however, another parcel submitted to their scientific skill, and in which I can quite believe that they found arsenic. Raoji was a servant of Colonel Phayre, and one of the supposed poisoners. Upon *November* 9 his belt was taken from him and given to another servant named Budhar. Why is not explained. On December 22 Raoji was arrested, and after having been in the hands of the police until the 24th, after the usual custom, made a confession; and, amongst other things, stated that he was in the habit of keeping the poisons entrusted to him in his belt. It then occurred to Akbar Ali, an intelli-

gent detective, to examine the belt, and Budhar was sent for, and made his appearance. Akbar's sagacious eyes discovered a piece of thread and a packet of paper, *which had never been seen by Budhar during the six weeks he had worn the belt*, but immediately presented arsenic to the imagination of Akbar. He, however, without satisfying himself, rushed into the next room, where Mr. Souter, a commissioner of police, happened to be, and brought him to the piece of thread and the paper parcel, and there, sure enough, was found the arsenic afterwards tested, and which was said to be precisely similar to the other portions referred to as having been previously found.

Strange, however, that Akbar's remarkable prescience should be afterwards verified by Raoji, who, up to the discovery, had quite forgotten the circumstance that he had left it there.[1]

This incident is somewhat unfairly, although not, I am sure, intentionally so, described in the following terms in the report of the English Commissioners: 'The second packet (the one in question) was found in Raoji's belt on December 25, 1874, in the presence of the commissioner of police, Mr. Souter.'

[1] It is, perhaps, fitting that I should mention that this last fact is much relied upon by English Commissioners as proving the truth of the story!

Upon the twelfth day of the inquiry a scene was presented, upon a correct reading of which depends very much a true appreciation of the history of this case.

A witness called Hemchund Futeychund was called, and, upon presenting himself, brought to my imagination what would probably have been the appearance of a person who had come out of the cells of the Inquisition after the officers of that institution had pursued their usual inquiries. He appeared to be in a prostrate condition of terror, and his miserable story was of a continued persecution by the police; of the extortion from him of false statements, and the manufacture of fraudulent documents. And to these charges he resolutely, although with the appearance of great nervousness, adhered, and was not shaken by a very able cross-examination.

It is well to consider the position of this witness. He was one of the most respectable tradespeople in Baroda, and a diamond merchant. It was attempted, in pursuance of Colonel Phayre's letter, to connect the Gaekwar with the purchase of diamonds, and Hemchund alleges that he was forced by constant pressure into supplying that testimony. We were informed that he was kept for three days without a bath, which the poor

wretch imagined devoted him to I do not know how many years of future torture.[1]

The English Commissioners ignore his evidence altogether, whether or not upon the ground that he contradicted that given by the police they did not state; but I must say that upon this point I think that the judgment of his own countrymen is far more important and likely to be correct. None of them discredit it. And the Maharajah of Jeypore, admitted to be one of the ablest men in India, and a devoted friend of the English Government, signally recognises it as truthful. Other servants of Colonel Phayre supply confessions.

Now it must be remembered that, although no imputation was thrown upon Colonel Phayre's integrity, much comment was invited by his conduct, and he was upon his trial as well as the Gaekwar. It may be said, therefore, that each party would have half the tribunal imbued with a prepossession in his favour. My own deliberate and well-considered belief is that Colonel Phayre was subjected to no real attempt to be poisoned, but I think that certain persons were anxious to retain him in the Residency, and to defeat the endeavour of the Gaekwar to get

[1] This was not proved, but told to the adviser of the Gaekwar after the trial.

him turned out, and supposed that the alleged attempt would have that effect.

The Colonel admitted that he had received warnings beforehand, from whom did not appear; and a bitter enemy of the Gaekwar's supplied the Colonel with a description of the materials by which the attempt was actually made. It seems to be conceded that, somehow or another, these people escaped without any investigation. Diamond dust, arsenic, and copper are the ingredients indicated. The quantity left in the tumbler could not afford a satisfactory analysis. And so there is a miraculous discovery of a parcel containing arsenic in the belt of one of the supposed poisoners, who had forgotten its existence until after it was found; and some respectable witness was wanted to supply a proof of diamond dust, and so poor Hemchund was produced, and he proved the whole story told to be a lie, as did also another person named Pedro, in relation to a statement made by another accomplice.

But the theory that I entertain would be displaced if Damadhur Punt had been a voluntary witness. He was private secretary to the Gaekwar, and, as far as is known, had no motive to procure his deposition. It becomes, therefore, necessary to ascertain how this gentleman happened to take up the position of his master's ac-

cuser, and his account of this will throw no small light upon what probably occurred with the other witnesses.

I copy the following from the report of the English Commissioners :—

Damadhur Punt was arrested the evening of the day upon which the Gaekwar was placed in confinement (January 14, 1875). He was imprisoned for two days in the Senapali's office at the palace, and then he was brought to the Residency, where he was placed under a guard of European soldiers for sixteen days, and afterwards under a police guard. Being, he states, tired of the European guard, and, *thinking that he could not otherwise get out of confinement*, Damadhur Punt made a confession to Mr. Richey, Assistant Resident, on January 29 and 30, 1875. It is substantially the same as his evidence before the Commission, *and was made under a promise of pardon.*

I can quite understand that Damadhur Punt did not enjoy himself in company with sixteen English soldiers, and like Hemchund, was ready to redeem himself from such captivity, especially if running the same risks in a future life by remaining in it. But what is the value of such testimony? And every witness went through this same preparation.

The feeling of the audience during the ex-

amination of Damadhur Punt was shown very clearly by spitting upon the floor and other signs of disgust. On the next day it was observed that a much larger number of soldiers occupied the court.

I have now given a summary of this remarkable inquiry. I have expressed my own views, and have ventured upon a theory that has always prevailed in my mind, although at the period I considered that my duty was confined to showing that the prosecution had failed, which I think that I succeeded in doing; and, notwithstanding the great respect that I entertain for the three members of the Commission who felt it to be their duty to decide adversely, I still entertain the same opinion. And I cannot think that the weighty reasons given by the Maharajah of Jeypore, and substantially agreed in by his colleagues, are met by any of the arguments used by the English Commissioners.

Amongst them the Maharajah urges:—

'That Damadhur Punt, Raoji, and Musoo, whose testimony is supposed to form the basis of this grave charge against the Gaekwar, are accomplices, and their evidence is not corroborated by a single respectable witness.' Again, and this is most important:—

'No documentary evidence, or evidence of a

convincing nature was forthcoming from Damadhur Punt, notwithstanding his position as private secretary to the Gaekwar, and the command he had over the records of the Maharajah's private office.'[1]

He also refers to Hemchund's direct contradiction, which he treats as being trustworthy, and also to other important contradictions.

The proceedings were terminated by a proclamation dated Simla, April 19, 1875, signed C. U. Aitchison, Secretary to the Government of India, deposing the Gaekwar on the ground of abuses previous to and not connected with the inquiry, and in which the following paragraph occurs: 'The Commissioners being divided in opinion, Her Majesty's Government have not based their decision on the inquiry or the report of the Commission, nor have they assumed that the result of the inquiry has been to prove the truth of the imputations against His Highness.'

Somewhat inconsistently, and, I venture to think, neither in good taste nor in strict fairness, the same gentleman—Mr. Aitchison—published upon the 21st of the same month a sort of manifesto embodying the views of the English Commissioners, and agreeing emphatically with their conclusions. The document does not exhibit

[1] As a matter of fact there was not a scrap of writing directly implicating the Gaekwar.

any originality, or add at all to the arguments adduced by the Commissioners themselves.

I have copied these extracts from a book in which the proceedings are published *in extenso*, and apparently by the authority of some one connected with the Government, as, in some preliminary observations, the writer refers to the delay that has occurred in giving the decision, and accounts for it as follows: '*The delay is generally attributed to a difference of opinion between the Viceroy in Council and the Home Government, the former wishing to treat Mulhar Rao as a convicted criminal, while the latter, influenced no doubt by the outcry of the "Times," and other London papers, which for some inexplicable reason had ranged themselves on the side of the defence before even waiting to see reports of the case for the prosecution, wished to avoid taking a course which would be sure to provoke hostile criticism in England.*'

Now this assertion about the press is certainly not founded upon fact. I believe that the first adverse criticism resulted from the cross-examination of Colonel Phayre. And the evidence in the case was followed with the greatest attention, and opinion was, as far as I have seen, unanimous that it was most unsatisfactory and unreliable. Judging also by the despatches that I have seen coming directly from Lord Northbrook, and which

exhibit an enlarged and statesmanlike mind, I can never believe that he would have treated the opinions of three illustrious princes with such indignity. I have, as I have intimated, nothing whatever to do with the reasons of State that influenced the Government in deposing the Gaekwar; but it must not be supposed that I think the course was pursued upon well-founded information furnished to the Viceroy. I cannot but remember the kindness and courtesy I received at the hands of the Gaekwar, his patient and uncomplaining demeanour during the inquiry, and his kindly expressions of gratitude for my exertions; and I should be glad if the above imperfect comments should have some effect upon the judgment of those who have to deal with him, and call their attention to the position in which he is now placed, which, to my intense astonishment, I understand to be practically in the custody of the Dr. Seward who figured upon the investigation as one of the bitterest witnesses against him.

CHAPTER XXIV.

TERMINATION OF THE TRIAL.

THE great trial is ended. The regulation number of guns has announced the departure of each of the respective potentates. The English Commissioners have closed their note-books. Not a word has been spoken, not a hint given as to what the decision was likely to be, but the result was no surprise. Colonel Phayre *versus* the Gaekwar of Baroda represented in the thoughts of men the momentous case that had just concluded.

Eastern minds certainly never imagined that there would be a British verdict against their compatriot. Perhaps amongst our own countrymen a similar opinion was entertained in relation to the native princes. And the whole of the pomp and panoply might have been spared. The Indian Government treated the conclusion as a nullity, and simply effaced it; but the interest created by the proceedings will be long remembered, and the members of the Court, by their patience, attention, and courtesy, are certainly entitled to the thanks of all who were brought under their influence.

Some few observations are worthy to be made It was marvellous, considering the intense heat, how delightfully cool the court house was kept. And I shall never forget the thorough loyalty of my juniors and the assistance they afforded me. I have mentioned the names of all of them: the English members were Mr. Branson and Mr. Purcell, at the houses of both of which gentlemen at Bombay I was most kindly received. The latter of these has since died. He imprudently exposed himself in the jungle, shooting, and caught a fever. The former gentleman still continues to practise at Bombay. A member of the bar named Taylor represented some collateral interests, and afforded me much pleasant information and gossip.

We passed an agreeable life enough; an unmistakably good brand of champagne was sent to us through the favour of the Bycullah Club, and we got fresh fish every day from Bombay. I have mentioned that Mrs. Branson kindly presided over our household. On the morning following the termination of the trial we started on our return journey, and I was again received at the house of Mr. Jefferson until the sailing of the homeward-bound P. and O. steamer. I cannot say that I suffered much from the effect of the climate, but I preferred that of Baroda greatly to Bombay, the former, although intensely hot, being perfectly dry, which is far from being the case at the latter.

I received many kind compliments from all quarters for my conduct of the case; there is no doubt that I might have excited native feeling to a considerable if not dangerous extent, but it would have been an improper advantage to take of my position to do so. I felt that I had been retained to defend my client upon a specific charge, and I shall always think that the prosecution failed to substantiate it.

Before I left Bombay a most gratifying mark of kindly feeling and approval was exhibited towards me. There was quite three-quarters of a mile to be traversed between Mr. Jefferson's house, where I was staying, and the dock from which the steamer started, and the whole space was filled with a dense mass of people, who had assembled to wish me adieu.

So thick was it that the carriage could scarcely make its way, and it is impossible that I should ever forget the kindness and, I may venture to say, enthusiasm, with which I was received. An address was also delivered to me, accompanied with a handsome shawl—this article, I understand, being a very signal mark of regard. The address was engrossed upon parchment, and signed by fifteen hundred natives, including the highest and most distinguished inhabitants of Bombay, and was in the following terms :—

To William Ballantine, Esq., Serjeant-at-Law.
Patent of Precedence.

Sir,—As you are departing from these shores, after having with signal ability and independence defended His Highness the Gaekwar of Baroda—a prince in whom the people of this country are deeply interested—against the accusations preferred against him by the Government of India, we, the undersigned inhabitants of Bombay, take this opportunity of thanking you for your exertions on behalf of the said oppressed prince. We request you to accept this little present (a shawl), which we offer in testimony of our gratitude for your valuable labours in his cause, and we bid you a cordial farewell, and wish you every happiness.

Here follow the Signatures.

Bombay, March 22, 1875.

My kind friends, Mr. and the Miss Jeffersons, accompanied me to the docks, and the carriage had considerable difficulty in penetrating the crowd. At this time I did not know what decision would be arrived at about the unfortunate Gaekwar, and had no drawback to the feeling of gratitude for all the kindness that had been extended to me. After I had arrived on board I received, through Sir Lewis Pelly, a very kind message from my client, and requesting me to accept a portrait of himself as a mark of his consideration. This was transmitted to me subsequently. It is painted by an Indian artist with considerable skill, and is a remarkably good likeness.

I do not remember the name of the vessel that brought me home. Everything was very pleasant

on board, and the voyage passed smoothly and without any incidents. Amongst the passengers was Lord de Grey, the son of the present Viceroy. He had been round the world, and was returning, and his pleasant anecdotes of travel took much away from the monotony of the voyage. We both of us stopped at Suez, and visited Cairo. Once upon a time a writer might fill his pages with accounts of mosques and bazaars and the strange habits of the natives. Now I should as soon think of describing the streets of Margate. An English brougham with a not unusual occupant drives up and down the promenade. Every other house almost, at all events in some of the streets, was a gambling resort, and I heard some ugly stories about the disappearance of Europeans. Lord de Grey and myself visited the Pyramids. I did not, however, attempt an ascent. They are the haunts of dirty, dingy, disreputable beggars, who carry knives.

I was not sorry to get away from Cairo, and, reaching Alexandria by rail, joined the same ship, and, after another calm passage, duly reached Brindisi, which I have already described, and I saw nothing to induce me to change my mind. I regret that I cannot remember the name of the gentleman who at that time held the post of Consul, that I might convey directly to him my appreciation of the great kindness and attention

that he showed me. A telegraphic message hurried me home, where, having arrived in due course, I need not say I have no adventure to relate of the journey.

I have had occasion to mention, in the course of the foregoing pages, the name of Sir Lewis Pelly. He had conducted the very delicate arrangements immediately antecedent to the Commission, and had the charge of the Gaekwar's person during its continuance. He also filled the post of Resident, and from him myself and brother counsel met with many proofs of attention and kindness. His demeanour to the Prince was characterised by all the courtesy and consideration that his duty would permit. He vacated the position of Resident in favour of Sir Richard Meade, who had been one of the Commissioners. Whilst I was at Baroda I received a letter from Colonel Napier Sturt, who was staying upon a visit with his brother-in-law, Lord Northbrook. We met afterwards in London, and his Royal Highness the Prince of Wales did him and me the honour of dining with us at the Garrick Club, on which occasion Sir Lewis Pelly was also my guest, and thus I had the opportunity of returning his kindness in the manner that must have been most gratifying to himself.

CHAPTER XXV.

GENERAL REVIEW.

In a mental review of the contents of the different chapters contained in these volumes, I feel how much I have left unsaid that might have amused, and possibly have been of some service to my readers. I also feel that in my own profession changes have taken place, and are doing so daily, which are deserving of more reflection than I have hitherto given to them.

The public scarcely appreciate how much they may be affected by these changes, although recent incidents have occurred affording unfortunate illustrations.

No one can doubt that the general administration of the law has during the last half-century improved in every branch, and the present generation would scarcely credit the amount of villainy, fraud, and oppression which previous to that period flourished under its auspices. The gaols filled with victims, officers of the sheriffs robbing both creditors and debtors; small courts, the offices of which were put up for sale, and the costs incurred by the

suitors brought ruin to both parties. One flagrant example was the Marshalsea, and a gentleman whom I slightly knew, named Higgins, but who wrote under the *nom de plume* of 'Jacob Omnium,' conferred a benefit upon society by his eloquent denunciation of its iniquities, leading to the ultimate abolition of the Court. Immense taxes were imposed upon legal proceedings by numerous sinecure offices paid out of suitors' pockets. The profession also was comparatively limited. In 1816, the year in which my father was called to the bar, there were only twenty-eight King's Counsel. Lord Eldon was Chancellor, Ellenborough Chief-Justice, and Serjeants' Inn boasted several most distinguished members. I cannot think among the numerous improvements effected that the destruction of this last body can be numbered, and it seems to have been done with thoughtlessness, and without such formalities as dealing with so ancient an institution deserved. I believe that those answerable for the result scarcely knew the character of the institution. Formerly it had certain exclusive privileges. These, as I have before said, were properly abolished, but its peculiar quality, that of being essentially a popular institution, and not subject to the control of the Crown, thus distinguishing its members from King's Counsel, in itself made it worthy of retention. It possessed

another great advantage—that a junior who had not seen much civil business, and who had practised principally at sessions, could, after seven years' standing, claim the appointment, and thus get a step intermediate to that of King's Counsel without sacrificing certain business that the latter gentleman was, by etiquette, bound to abandon. I have referred for a second time to this rank, because I think now that, again without full reflection, a course is being adopted by which ultimately both the public and the profession will grievously suffer in the administration of justice, and recent occurrences have forced the matters to which I refer prominently forward. I have already said, and wish emphatically to repeat, that no higher intellects can exist than many that have adorned the Equity bar. The names of Bethell, Roundell Palmer, Cairns, Jessel, and the late Lord Justice James represent men worthy of any age; but I cannot think that the general body of that branch of the profession to which they belong are fitted to try causes dependent upon oral testimony, and I consider them to be specially unsuited to preside in criminal cases.

Their schooling has been that of drawing conclusions from affidavits, and arguing before refined and intellectual minds. The evidence does not come into their hands directly, but has been manipulated

by the solicitor. They do not see the witnesses, as an ordinary rule, and I have already expressed my opinion as to their mode of dealing with such apparitions when they occur. The judge who listens to the argument has to be reached by calm and unimpassioned means quite unfitted to a popular and comparatively uneducated tribunal. Can this be an appropriate preparation for a man to be placed upon a judgment-seat, facing a dock, with the very form of which he is unacquainted, and called upon to deal with a fellow-creature's life, upon materials of which he is, by practice, absolutely ignorant?

It is not only that the individual so selected has no experience of witnesses, but the class of business to which his mind has been applied is totally different from what presents itself in the criminal courts. No doubt, he has met with plenty of falsehood and fraud, but they have been arrayed in a decent and respectable garb, and bore no more resemblance to the crime and its concomitants prevailing in the criminal courts than they did outwardly to the fustian jacket of the labourer, or even the gaudy apparel of the village beadle. My readers have frequently noticed the following scene in court. A learned judge has taken his place upon the bench, a criminal charged with murder is arraigned before him. He has no

counsel. And his lordship, addressing a gentleman who probably has no client, says, 'Mr. ——, will you kindly watch the case for the prisoner?'

Let my readers picture to themselves the life of a fellow-creature, possibly assailed by perjury, dependent upon the practical knowledge of an Equity judge, assisted by a junior counsel.

I was myself present when this actually occurred. A Chancery barrister of most remarkable attainments, and possessing every high quality except the experience necessary for his position, having been created a judge, was called upon, amongst his first cases, to try two most serious charges of murder, in the first of which the incident I have referred to actually occurred. At his request a junior counsel was asked to defend, and did so with great ability and judgment, and there was no failure of justice in the result. In the second case, there occurred a scene which certainly would not have happened if the judge had come from the other branch of his profession, and I am not sure that the verdict arrived at was correct; certainly it was subsequently modified. I am not sorry to refer to these instances, because, except the evils that must arise from the grounds I have referred to, it would be impossible to attach censure to the judicial qualities of the learned judge. The public have had their attention called

to two recent cases connected with the administration of the criminal law. Both of them happen to have been tried by the same judge, whose intellect is of the highest order, and before whom it has frequently been my pleasure to practise. He was selected from the highest ranks of the Chancery bar. In the first of these cases a prisoner was left for execution. The colleague of the judge fortunately entertained doubt, and inquiries were readily instituted, and the result was the discovery of the man's innocence. In another case, two men had undergone a long term of imprisonment, part, only, of a much longer sentence, well deserved if they had been guilty. They have been shown to be perfectly innocent, pardoned, and recompensed. I was not present at either of these trials, but some who were have told me that the judge took a perfectly just view in both cases; but he had to address country juries of the commoner class, and in both instances they were governed rather by details that shocked their feelings than by the evidence that ought to have controlled their judgment.

In the observations that I have made respecting the appointment of purely Equity lawyers as Criminal judges, it must not be supposed that I ignore the liability of human nature, in every grade and with whatever schooling, to error, and it

is on this account that I have so urgently pressed the necessity of a Court of Criminal Appeal. Applicable of course only to convictions, it is essential that little delay should take place between the trial and the appeal, and I have already ventured to shadow forth the kind of tribunal that I think should be created. I have also expressed an opinion that the absence of such a court is prejudicial to the interests of justice oftener by the escape of criminals than by wrongful convictions. There are certain words that are constantly used, and, whether actually used or not, their impression exists in the minds of a jury trying a capital case: 'Remember, your verdict is final.' How many criminals have escaped through the influence of these words! I have recorded two instances in the course of these pages. I trust that there have not been many cases where their efficacy has not prevailed, where it ought to have done. But who on this earth can tell?

One other ground for the institution of a Court of Appeal is that it will abolish a most discreditable anomaly. Cases may, by a well-known process, be removed into the Court of Queen's Bench, and there, although supposed to be tried by the highest officer of the law, and with the assistance of a special jury, a verdict of guilty is not necessarily final, it may be appealed against. As

the process of removal is expensive, it may not unfairly be alleged that in some cases there exists one law for the poor, another for the wealthy. The verdict against the defendant unremoved would be final.

Another evil, and in my opinion a very grave one, arises from the creation of judges out of a different sphere from those who ordinarily practise in the courts over which they are placed. In an early chapter I called attention to the remark of Monsieur Berryer as to the courteous manner, kindly feelings, and perfect confidence existing between the bench and the bar. This mainly arises from the intimacy existing between them during an early professional career. If a learned judge upon a recent occasion had been so selected, it is not likely that such a scene as that exhibited lately upon the Oxford Circuit could ever have taken place.

As I have taken my readers back to my old Inn, I will venture to surround it with all the halo to which it is entitled. We were and had been from time immemorial connected with the Corporation of the City of London, and, inasmuch as the greatest compliment appreciated by that august body was annually paid to us, we were doubtless once upon a time of no small importance ourselves. We received an invitation to dine at the Lord

Mayor's dinner on November 9, and arrayed in robes that gave us as much claim to notice as the men in armour, and preceded by a personage known as the City Marshal, we were assigned seats amongst the principal guests at that great festival, and it was really a sight worthy of notice.

The grandeur of the hall, the magnificence of the dresses, the style of the entertainment, and the rank of the guests, rendered it one of the greatest scenes exhibited throughout Europe. Upon this great occasion it was the office of one of the high officers of the Corporation, no less a dignitary than the Common Serjeant, personally to convey to us the invitation on the first day of Michaelmas Term at our Inn.

Sir Thomas Chambers, when he occupied this office, was accustomed to commit a most amusing blunder. Whether moved by some idea of his own dignity, or acting under civic instruction, I am unable to say, but when he came to perform his task, he addressed himself solely to the Judges, not even naming the Serjeants, although the former were asked only in that capacity, and were included with the Lord Chancellor and Equity Judges specially in their official capacity, and invited by the Lord Mayor himself personally. The Common Serjeant was not probably aware that whilst it in no respect derogated from his dignity to convey a

message from one great corporation to another, he was performing the duty of a butler in conveying an invitation to dinner to individuals belonging to it.

There was a worthy member of our body, Mr. Serjeant Woolrych, who had written a most exhaustive book upon Sewers, and was very learned about city customs, and who exercised his mind greatly upon the blunder into which the Common Serjeant had tumbled, and wanted me, as Treasurer, to call attention to it. He considered that this was not only due to common humanity but also to our dignity. I was, however, deaf to his entreaties.

I do not remember dining more than upon one occasion in my official capacity. On this occasion the scarlet robes and heavy cumbrous wig, necessary to be worn, destroyed all possibility of enjoyment. The Serjeants of the Inn were also invited one Sunday in May or June, I forget which, to attend the service at St. Paul's Cathedral. This was a very interesting ceremony; and, although the names of the clergymen whom I heard preach have escaped my memory, I remember that the sermons were highly interesting and intellectual; but the beauty of the spiritual fare was as greatly destroyed by our costume upon these occasions, as our enjoyment was of the luxuries so liberally provided upon the occasion of the Lord Mayors' feasts.

An incident occurred to me which, from my connection with the Tichborne case, gave me considerable interest. It arose about eighteen months ago, when I was enjoying a very charming visit with Sir John and Lady Holker, at their country seat, at Coulthurst, upon the borders of Lancashire and Yorkshire, and, learning that Stonyhurst College was situated at no great distance, I took the opportunity of driving over to pay it a visit. It was the locality pointed at by a great portion of the cross-examination by Sir John Coleridge. Through its rooms and gardens the unhappy Claimant was invited to travel; it was here the learning was supposed to have been imparted of which he was challenged to produce some proof, and it was over the whole of this period that if he were the genuine baronet his unfortunate failure of memory extended. I was most kindly received, and made an interesting excursion through the establishment and its grounds. Of course, I can form no opinion of its scholastic successes, but I was struck by the variety of the studies and their apparently efficient superintendence; and there was one characteristic that I was fully able to appreciate—the extreme attention and care apparent in every portion of the establishment to the health and physical comforts of the pupils.

Upon the first trial, to which I have just

alluded, and amongst the witnesses who were undoubtedly actuated by a firm belief in the identity of the Claimant with Sir Roger Tichborne, was a Catholic priest who had been one of the tutors during the stay of the real baronet at Stonyhurst. This gentleman gave his evidence in favour of the claim with great firmness and evident honesty of intention. He was subjected to a severe cross-examination and suffered greatly under it.

He was one of those men of not an uncommon type, whose feelings had been reached without a sufficient aid from reason; who did not dissect sufficiently from materials before him what he really knew from what had been impressed upon his mind from other sources. Witnesses of this kind cut but an awkward figure in the hands of a skilful counsel; the more so that they feel that they may have been misled and conveyed erroneous ideas. Such a feeling is very trying to a conscientious man, and it was evident that this gentleman suffered greatly. I took the opportunity of enquiring after him, and learnt that his mind had given way, and that he was in confinement. The very refined and intellectual personage who was my *cicerone* had been formerly a Protestant clergyman and one of the masters of Eton College.

I am not precluded by the sincere friendship I feel for my kind hosts from availing myself of the

example of Sir John Holker to illustrate some of my comments upon appointments to the Bench, especially as I shall be confirmed by the entire profession. The position that he attained at the Common Law bar speaks for itself; his selection to conduct important Equity cases shows that he must possess sufficient knowledge upon that branch for appellant business: but what my attention has been, throughout the remarks occurring in these pages, particularly directed to, namely, the Criminal branch, is peculiarly satisfied by his appointment. Sir John possesses a large sessions experience, and has dealt with witnesses of every grade and character.

I am uttering a very safe prophecy when I predict that he will be received with a hearty welcome on every circuit in the kingdom, and afford to those who belong to it all the comfort and assistance consistent with an impartial exercise of his duty.

CHAPTER XXVI.

SOME FURTHER TRIALS.

In the year 1838 I was present at a natural episode to an event that I have related in a former chapter (the termination of a disreputable broil at a house of infamous resort): it was performed at the Central Criminal Court, and there the story was told in more detail than I have previously related it. It was in the early dawn of an August day that five young men met at a well-known spot. One of them was a surgeon and a friend of the unhappy man Mirfin who met with his death, and it was from his mouth principally that the complete story was told. He knew nothing of the nature of the quarrel, but there was something terribly significant in the mode in which the deceased urged upon him to take care that the pistols were fairly loaded. The account given by him was not unfavourable to his friend's opponent. On the first fire the ball went through Mirfin's hat. He took it off, looked at it, but against remonstrances from all quarters, himself insisted upon another fire, which was fatal to him. It must be said—though little can be

said for duelling—that if the encounter had occurred between men of any position in society, this second fire would not have been permitted. A judge long since dead—Mr. Justice Vaughan—an excellent specimen of those whom I remember in my early days, tried two of the parties to this sad scene. The principal escaped, and only two of the seconds underwent the ordeal. They were both found guilty of murder, and sentence of death was recorded. This was a mere form since disused, which excluded the capital penalty and left the punishment in abeyance. They were imprisoned for a period of twelve months each. I knew one of them slightly, by no means a cruel man, who has since filled a respectable position in society.

I think that I am not wasting the time of my readers in dwelling upon this event, as it may be fairly taken as an epoch, from which the brutal custom of duelling received its death-blow; and as far as my observation and experience enable me to judge, the manners and demeanour of society have become much more refined and considerate, instead of having retrograded and become coarser, as was prophesied would be the case by those who advocated the practice.

Whilst the events that I have just related affected materially the impressions of English

society and hastened the abolition of one of the remnants of barbarism, another, not altogether different in its character, was struggling against the increasing refinement of the age to maintain its existence. Pugilism at one time was not without some claim to chivalry; it was contrasted frequently in varied discussions with the alleged use of the knife in other countries, and perfect fairness had been at one time a characteristic of the encounters; and it was not wonderful that the courage and endurance displayed should excite the admiration of the classes especially to which these athletes belonged, and give to themselves a feeling that the profession was an honour to themselves and a crown of glory to their children.

As was the case in duels so in prize-fights, it would have been useless to appeal to juries to vindicate the law. It is not uninteresting to witness the decline of such feelings and to glance at the cause. The practice, however fairly conducted, could not be otherwise than coarse and cruel. It must always have been surrounded by elements distasteful to men of refinement, and gradually that portion of society which consisted of the better classes gave way to the representatives of brutal ruffianism, and the honour of the ring became tainted, first by suspicions, and latterly by the certainty, of unfair play. Pugilists ceased to

be men; they became mere animals, and were backed as such, and hocussed as such. Honourable ambition entered no longer into the minds of the combatants; the greed for gold tempted the disgusting sacrifice of their bodies. Blacklegs outside the ring had probably paid, or agreed to pay, some miserable wretch to endure a certain amount of bruises until a previously-arranged result gave a sham victory to his opponent. Such may fairly be described as being the state of the prize-ring at a date of which I have a vivid recollection. It was in the year 1860, when the talk in every club-room resounded with the approaching battle between Tom Sayers, the champion of England, and the Benicia Boy, an American named Heenan. The contest was to revive those good old English days when the fists were held in glory. Sayers I had known something of, in a matter in which he had been a witness. He was apparently a well-conducted, powerfully-built man of between thirty and forty. Heenan was younger and much taller. The fight took place at Farnborough. An immense crowd assembled. Whispers were circulated about those who, concealing their identity, witnessed the conflict. It was perfectly fair in intention; both men were thoroughly honourable and their pluck undeniable. Amongst the glories obtained by

Sayers was a broken arm. The American nearly lost the sight of one of his eyes, whilst the bodies of both were mauled and battered out of human shape. Two hours and upwards did this disgusting proceeding last, when the victory seemed tending to one of the combatants, and then the ferocity of the mob broke down the barriers of the ring, a tumult occurred, and which of these two heroes was the victor was never determined. From this time until recently the custom made no real attempt to establish an existence. Lately, out of the haunts of the low pot-house, human beings have been extracted to furnish amusement to their brutal associates, but it is satisfactory to find that the officers of the law are sternly repressing the attempts, and that the juries have no sympathy with the endeavours.

I sincerely, and with some confidence, hoped that an event that occurred two years after the famous encounter of which I have furnished my readers with a sketch would have directed public indignation to a practice which, in its barbarism and its attendant cruelties, will bear comparison with any that can disgrace civilisation, with such force as to prevent its continuance. It occurred in July 1863. I will briefly relate its particulars. They made a great impression upon my mind at

the time, and I wrote to several of the newspapers upon the subject.

There was an hilarious festival held at the Aston Park, Birmingham, by a certain Order of Foresters, and one of the amusing and intellectual entertainments selected by the society was the engagement of a poor woman who designated herself the Female Blondin. Of course the performance was prepared to meet the taste attributed to the audience. The woman had to walk upon the tight-rope, and, if I remember rightly, to carry over a chair, which she succeeded in doing. After this—can humanity believe it?—her head was enveloped in a sack so as to completely blind her, and in this condition again she essayed the task. A few faltering steps—when, either from her nervousness or owing to some accident to the gear, she was dashed lifeless to the ground. In better and more pathetic terms than any I could use, with noble and womanly feeling; a letter was written by the command of Her Majesty, which, having extracted and preserved it at the time, I make no apology for reproducing.

It was directed to the Mayor of Birmingham, and was in the following terms:—

'Her Majesty cannot refrain from making known to you her personal feelings of horror, that one of her subjects, a female, should have been

sacrificed to the demoralising taste unfortunately prevalent for exhibitions attended with the greatest danger to the performers. Were any proof wanting that such exhibitions are demoralising, I am commanded to remark, that it would be at once found in the decision arrived at to continue the festivities, the hilarities, and the sports of the occasion, after an event so melancholy. The Queen trusts that you, in common with the rest of the townspeople of Birmingham, will use your influence to prevent in future the degradation of such exhibitions in the park, which was gladly opened by her Majesty and the beloved Prince Consort, in the hope that it would be made serviceable for the healthy exercise and rational recreation of the people.'

It is deserving of observation that these exhibitions do not involve merely the present danger of the persons engaged in them, but are founded upon a system of education and training that are shocking in the extreme. These wretched contortionists are brought up to the work from infancy, and the means used to render their limbs serviceable to the purposes of their wretched trade is to distort their proper movements, which can only be done by subjecting them to infinite torture. And a short life of hardship and pain, probably ended in agony, is entailed upon our fellow-creatures

without choice, or, at all events, before they possess the means of knowledge.

I cannot help thinking that it is a scandal that these performances, which I have no hesitation in saying are illegal, should take place in establishments under the control of the county justices and sanctioned by their license.

Before concluding this chapter, my mind has been greatly exercised as to whether I shall be justified in referring again to the Union Club. I am quite aware that it is out of place. I ought no doubt to have rearranged my former comments; but, then, whilst bound to have no care for the trouble to myself, I dreaded the reproachful looks of my printer, whose patience I have already sorely tried, and so I have determined to throw myself upon the consideration of my reader. Since I wrote the former pages I have come across my old friend Tom Holmes. He is still a member, and rather an old one, having been elected in the year 1828. His father was the old Tory Whip, and one of the most popular men in London, and was, in connection with the Lord Lowther of those days, one of the earliest promoters of the Club.

During the years 1804 and 1805 it was, as already stated, carried on at a house in St. James's Square. It was at that time a club in which a great deal of high play went on, and amongst the

highest players was a former Lord Rivers. I do not know what his connection was with the nobleman of that name who has recently died, but it was not lineal.

Mr. Holmes told his son that upon one occasion this Lord Rivers exhibited to him in the club no less a sum than 100,000*l.* in bank-notes. Whether at that time or not he was fortunate in play, it seems that good fortune did not continue to follow him, as he drowned himself some years after in the Serpentine, the act being attributed to losses at play. A singular incident occurred at the election of Tom Holmes himself. One black ball out of ten excluded, and upon this occasion there were eight candidates, and it so happened that his name was upon the last box in the row. The seven Irish candidates were duly elected, in the last were seven black balls. A servant came forward and charged a gentleman, the member for some place in Ireland, with having voted unfairly.

It seems that some suspicion had attached to him in consequence of former proceedings. The ballot was repeated, and Tom Holmes was elected without a dissentient voice. No reason seems to have existed for the action of this gentleman, who made no denial of the fact. Some idea not dissimilar to those which are said sometimes to

actuate the Hibernian mind may have led him to hasten by this method the election of his own friends. He was of course expelled the club, and also from several others of reputation to which he belonged. It is due to his memory to mention an incident that makes one feel that the act was due to some curious hallucination. Some short time after the discovery, he sent 100*l*. to the servant who had been the agent of his detection.

Volumes might be written of the eccentricities of club life: I have myself known of many. There is one that occurs to my mind to mention, as I was well acquainted with the facts, and with the member in question. He had been a colonel in the army, and was accustomed whilst at dinner, when he supposed that no one was looking, to transfer from his plate to his pocket-handkerchief divers slices of whatever edibles had been supplied to him, and these were supposed to supply his breakfast upon the following morning. I know as a fact that this same gentleman, hearing of a brother-officer being in distress, made him a present of 3,000*l*. without any solicitation, and merely remarking that he had intended to leave him that amount in his will, and thought that it might at the present time be of more service.

I was acquainted with a member of a military club, and happened to go with him into an um-

brella shop in Regent Street; he recognised, lying upon the counter, an umbrella belonging to himself, and upon examination he found that it bore his initials upon the handle. Upon inquiry he learnt that it had been left there to have the handle changed, by a brother-officer and member of the same club. A rather curious incident happened to me in the Union Club, which I may as well mention now. I was lunching with one of its younger members—I really forget his name: he told me he was familiar with my name through a letter to my father which had come into the possession of his, as executor of a Captain Cowell, from the Duke of Wellington. This letter, which he showed me, and a copy of which will be found in a note at the end of this volume, related to a dinner given to the Duke, and which I have mentioned in a former chapter; it probably came into possession of the Captain as adjutant of the Tower Liberty Militia, which office he had filled at the time.

One of the objects which led to the creation of the Union Club was to bring together within its walls men of all shades of politics, and any violation of this principle would have been considered as a subversion of one of its cardinal rules.

CHAPTER XXVII.

LAST CHAPTER.

THIS is the last chapter of the first work I have ever ventured to present to the public, and it will be found to consist of scraps gathered up from topics dwelt upon in preceding pages, put together without order, but still, I hope, possessing some interest.

Before I commenced my professional career I was acquainted with Mr. Teesdale, a gentleman of very high standing in the City, and solicitor to one of the principal dock companies at the time my father was magistrate at the Thames Police Office. He was the father of Mr. John Marmaduke Teesdale, the present head of the firm, and who was one of my earliest clients and valued personal friends, who was also a member of the Garrick Club, partook occasionally of my tendency to Richmond and Homburg, and with him I have had many pleasant hours, and upon some personal matters have received very valuable advice. In three of the cases that I have thought worthy of recording he was the solicitor:—the poisoning case; the Tamworth Election Petition, and the action of Wellesley

against Pole; and those who know thoroughly the details of these cases will admit, without hesitation, the proverbial blindness of justice.

Having referred to the poisoning case, I may mention an incident told me by my friend, and which I omitted to record in the account of the trial. It may be remembered that a very suspicious death took place whilst the accused person was residing near his brother's shop. It appeared that when he was soliciting a reprieve he supplied the Home Secretary with a statement which purported to be an account of the places where he had resided. This was sent to Mr. Teesdale, who noticed that no mention was made of that locality. I think it was at a party at which Mr. Teesdale was a guest, a story was told which I will not impute to him. It was one of that class which the narrator declares he knows to be true, but he who repeats it only says that it ought to be. It was upon the eve of an important debate in the Lords that a noble member of that august assembly was obliged to preside in a Court of Quarter Sessions somewhere in Yorkshire. There was, unfortunately, a heavy calendar. What was he to do? There was no one to take his place. He consulted the chaplain. Whom can a man in difficulty resort to with more certainty of comfort and relief? He asks him — 'Who is the greatest scoundrel you have

in the gaol?' 'John Hoggins,' was the reply. What further passed between the noble chairman and his clerical adviser I cannot say, but directions were given that the said Hoggins should be the first prisoner put into the dock. To the great surprise of most people he pleaded guilty, and was addressed by his lordship somewhat in these terms:—'John Hoggins, the object of punishment is to reform, and when, as in your case, after a long course of crime, repentance at last comes, the court is willing to give effect to it,' and he concluded by passing a slight sentence. Hoggins was then turned out amongst the other prisoners, who most of them exhibited their penitence very expeditiously in the same form, but their sentences seemed rather intended to include what ought to have been given John Hoggins than to reward their own sense of what was due to society. The noble lord, however, was enabled to perform his duty to his country in the House of Peers.

Amongst my brother 'degenerates' was one not unworthy of mention. Mr. Serjeant Thomas began life in a humble position, but had the good fortune to marry early an exceedingly accomplished lady. With her help and great perseverance he obtained considerable knowledge, especially in modern languages. They, together, contributed to the press, and by this means and rigid economy he was

enabled to get called to the bar. In a certain class of case and before common juries he was by no means an unsuccessful advocate. There was a somewhat unkind joke made at his expense by a learned judge. He having moved for a writ of Nolle Prosēqui instead of Nolle Prosĕqui, 'Pray,' said the judge, 'do not make anything unnecessarily long on the last day of term.' Thomas, however, astonished the same judge upon another occasion by interpreting, offhand, an Italian affidavit.

He was a terrible thorn in the side of Serjeant Wilkins; his familiar mode of dealing with this gentleman's stilted sentences was by no means to his taste. I was present one day at the Sheriffs' Court, when these two counsel were opposed to each other. Serjeant Wilkins looked as if he could have eaten his antagonist, and his voice was in perfect keeping with his inflated oratory. Thomas arose when his time came, and, fixing his eyes upon his opponent, commenced in solemn tones with these words, 'And now the Hurly Burly's done ——' Wilkins waited for no more, but, tucking up his gown, got out of court as quickly as he could; not without a remark from Thomas which, being somewhat undignified, I abstain from repeating. Thomas had brought up his family very creditably, but had been unable to realise

any substantial means. At the time of his death his widow, a lady long passed her seventieth year, was not entitled to any share in the division of the property of the Inn, but I had known much of her history, and brought her case before the members, and without a dissentient voice I was left to exercise my own discretion. I sent her the same sum as she would have been entitled to if there had been no technical bar. And I can recall no more gratifying event in my life than the letter I received from her in acknowledgment. She told me in the most refined and graceful language, every word replete with sincerity, that, by the kindness the Inn had bestowed upon her, her remaining days were left without a care or an anxiety.

A likeness I possess of the principal spring at Homburg, most admirably photographed, brings back that place to my memory. It includes myself and some of my friends who were staying in that locality at the time—with the exception of Signor and Madame Arditi none are known to fame. There is, however, the figure of a good-looking young fellow, whose tale was a sad and singular one. It is that of a son of Dion Boucicault, whom about that time I saw a good deal of. I do not know how long it was after this occasion that he had been on a visit in Yorkshire. I think, but am not quite sure, that it was with my friend Sir

George Armytage. In returning he missed the train that he had intended to catch. The next by which he travelled met with a collision, which injured many of the passengers, but young Boucicault escaped unhurt, and was actively engaged in assisting those that were, when another train dashed up and killed him upon the spot. Much sympathy was of course exhibited to the parents, who in a graceful acknowledgment concluded by saying 'that the only trouble he had ever given them was his death.'

Those of my readers who may have taken up these volumes with the notion that criminal courts afford romances that create interest in those accused of crime, will have been greatly disappointed by my reminiscences; and indeed my observation has led to the conclusion that the motives usually are essentially coarse and commonplace, and the criminals worthy of very little sympathy. I have not been fortunate enough to meet with any lovely females who have drowned their infants or poisoned their parents from high and praiseworthy motives; nor have I met, standing in the dock of the Old Bailey, forms that would have graced the circles of fashionable society. I do not mean to say that many who are seen in that position have not been brought to it by a series of circumstances that may make them well worthy of

the pity of a philanthropist; but little remains, when they have blossomed into this state, that is calculated to command admiration. In the following case, however, of which I had some personal knowledge, I can present a young lady who was really one of the prettiest girls I ever knew, and whose story is not without romance. It is a Miss Alice L——. Of her early history I knew nothing; that is to say, before sixteen years old. She was not more when first I met her. I think I was introduced to her by my friend Captain Barberie at one of those assemblies dedicated to innocent recreation, and where the vouchers required for the entry were not fenced round with serious obstacles. And I presume that it was at one of these *réunions* that the most noble Lord Frankfort —the Baron of Montmorency—met her and fell victim to her charms. I can tell my readers nothing of the progress of the courtship, or of the occasions upon which he lavished upon the idol of his affections the jewels appertaining to his ancestral crown. Neither am I able to detail how the enthusiastic love of the noble baron became turned into such bitter hate that he consigned the lovely object of his former admiration to the dungeons of Newgate upon the ignoble charge of stealing those offerings of his love. Certain it is, however, that upon November 31st, A.D. 1840, the charming

Alice, gracefully standing in the dock of the Old Bailey, was the cynosure of hundreds of eyes.

Of course I was there in person, accompanied by a sympathising spirit. She was defended by Mr. Adolphus, whose voice was broken by emotion. Indignant glances were showered upon the baron. The judge was not unmoved. The jury acquitted without a moment's hesitation, and with a graceful curtsey she departed from the detested thraldom, celebrated as well as beautiful.

The manager of an East End theatre lost no time in securing such a prize,and shortly after her release she appeared upon his boards. There was a large gathering of the members of the Clarence Club assembled to welcome her. I am really ashamed to say that I forget in what character she appeared, or with what amount of success. Shortly afterwards I lost sight of her, and it was not until many years after, that, in a different sphere from that in which I first met her, again I found myself in her presence. She had become, as pretty fair-haired girls are wont to do, a portly dame, and was married to a gentleman of good position in America. She was, when I then met her, upon a visit to this country, and extended to me a welcome and pleasant recognition.

The trial, it will be observed, took place forty years ago, but I have heard that she is still alive,

and, in a certain State in America, is a leader of society.

One more story connected with the Central Court in which honour will not mingle—a story of my comparatively early days, when briefs were very rare, and warmly welcomed. This was a great occasion, and I was junior to Thesiger. As in the last I have recorded, the mischievous god was at the bottom of it, although the details did not exhibit much romance. Our client was a young gentleman of position and moderate fortune. He occupied a set of rooms in the Temple, and fate made him acquainted with a young lady who assisted in the disposal of the numerous articles of beauty and fashion in the establishment of Marshall and Snelgrove in Oxford Street. She was certainly, without exception, one of the handsomest young women I have ever seen in my life. I believe that the affection that grew up between the parties was perfectly honourable. Unfortunately, however, in other respects the young lady was not strictly correct. She had access to his chambers, and made them the receptacle of her employers' wares. They were concealed from his sight; but she, having been suspected, was traced, and our client was charged with receiving stolen goods, and was placed in the dock beside his inamorata. He was perfectly innocent, and acquitted without hesitation. For

her there was no defence. She was found guilty, and sentenced to fourteen years' transportation. He, poor fellow, suffered greatly. I know that he was deeply attached to her, and fully forgave her the cruel trial that she had occasioned to him. I learnt something of the subsequent history of the damsel. Her sentence was duly carried out, but, upon the vessel in which she was sent out, there were a doctor and a parson. Her bodily ailments required the constant attention of the former, whilst the latter greatly interested himself in her spiritual welfare. I forget which of these it was who succeeded in obtaining her affections, but to one of them she was married upon her arrival at New South Wales. It may not be known to many of my readers that in the days of transportation a convict might be married to a settler, and was assigned to him as a servant, but remained amenable to the discipline of the authorities in the event of any complaint being made.

I am told that many happy marriages of this class were made, and that some of the colonists were not at all sorry to select wives who were subject to these restrictions.

APPENDIX.

Vol. I. p. 321.

THE following is the extract referred to, April 3, 1834:—

'Yesterday I was forty years old—an anniversary much too melancholy to think of. And when I think how intolerably these forty years have been wasted, how unprofitably spent, how little store laid up for the future, how few the pleasurable recollections of the past, a feeling of pain and humiliation comes across me that makes my cheeks tingle and burn as I write. It is very seldom that I indulge in moralising in this journal of mine. If anybody ever reads it, what will they care for my feelings and regrets? It is no reason, they will think, that because I have wasted my time they should waste theirs in reading the records of follies that are nothing more than the great mass of the world are every day committing. Idleness, vanity, and selfishness are our besetting sins, and we are perpetually whirled about by one or other of them. It is certainly more amusing, both to other people and to myself (when I look back to what I have written), to read the anecdotes and events of the day than all this moral stuff (by which I mean stuff as applied to me, not as being despicable in itself), but every now and then the fancy takes me, and I think I find relief by giving vent upon paper to that which I cannot say to anybody—"Cela fait partie de cette doctrine intérieure qu'il ne faut jamais

communiquer" (Stendthal). I am satisfied, and I will go to other things—the foreign or domestic scraps I have picked up.'[1]

Vol. II. p. 223.

The following is a translation of the curious hymn with the presentation of which I was honoured by the subjects of his Highness, the Gaekwar of Baroda, upon my entrance into his dominions. I have referred to it and to my reception as indicative of the feeling entertained towards him. It certainly exhibits much fertility of imagination.

[*Translation.*]

To

THE MOST LEARNED

SERJEANT BALLANTINE.

MAY your merits be praised in every nook and corner of our country, and may our king be restored to his freedom and throne!

Then will your praises be sung everywhere.

Our hearts are filled with rising joy at the mention of your name, and we entertain the dear hope that the cloud of calamity that hangs over our king will be swept away.

Then will your praises, &c.

Is it not natural that the news of the arrest of the king of our Gujarath should produce a sensation in our bosom? Oh! give us your helping hand!

Then will your praises, &c.

All the men of Bharata fervently pray to God that their king be released and the grave charges attached to him be wiped away.

Then will your praises, &c.

[1] *Greville's Journal*, vol. iii. p. 77.

May pure justice be dealt to our prince in a pure and undefiled way! In that case we shall sing merry songs expressive of your great glory.

Then will your praises, &c.

Dhobi's Pole in Khadia, Ahmedabad.

I have the honour, most learned Sir, to be your most obedient servant,

HARIPRASAD PEETAMBERRAY DERASARY.

Vol. II. p. 280.

THE following is a copy of the letter referred to on the above page:—

London, June 13, 1834.

My dear Sir,—I am sorry to tell you that his Majesty has invited me to dine at St. James's on Saturday the 21st instant. As you are aware, these Royal invitations are considered as commands, to which all other invitations must give way. Under these circumstances I must request the gentlemen of the Tower Hamlets to excuse me for absenting myself from their proposed dinner at Blackwall, unless they can postpone it until Wednesday the 25th instant, if that day should suit them, when I will attend them with great pleasure.

Believe me, yours most sincerely,

WELLINGTON.

W. Ballantine, Esq.,
Thames Police Office.

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